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The Increase of Rent and Mortgage Interest (Restrictions) Act, 1920

WITH

INTRODUCTION AND NOTES

AND

THE TEXT OF THE REPEALED ACTS

BY

ARCHIBALD SAFFORD

of the Middle Temple, Barrister-at-Law

LONDON:

SWEET & MAXWELL, LIMITED

3 CHANCERY LANE, W.C. 2.

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PREFACE.

Of all legal relationships, that of landlord and tenant most freely excites the interest of laymen, and often exercises the erudition of lawyers. The misfortunes consequent upon war have necessitated the imposition of temporary measures restricting the ordinary law on this subject. Provisional experiments have now been replaced by an enactment of a more enduring nature, which to a great extent reproduces the phraseology of the Acts, which it supersedes and which have been the subject of judicial interpretation.

All these considerations suggest the present as an opportune occasion for a commentary on such legislation. To perform such a function and to associate decided cases with the sections they assume to interpret is the purpose of this book. The modesty of its design is the author's hope of success.

It is believed that reference is made to all relevant reported cases in which sections of the several Increase of Rent Acts have received interpretation. A few other cases bearing indirectly upon the subject have also been cited, but considerations of space have precluded their insertion in any considerable numbers.

The last reported case that has been available was that of *Ellen* v. *Goldstein*, decided on June 21, 1920, and reported in the Weekly Notes for the week ending July 3.

ARCHIBALD SAFFORD.

2, Pump Court,
Temple, E.C.4,
July 7, 1920.

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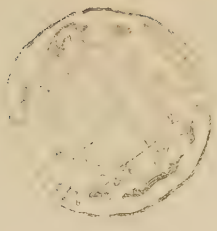

THE

INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920.

CHAPTER I.

Introduction

There have been in all five Increase of Rent and Mortgage Interest (Restrictions) Acts, and they will be found set out in the Appendices to this book. The 1920 Act is the only one now in force. The 1918 Act was repealed by the 1919 (No. 2) Act, and all the others have been repealed by the present Act.

The short effect of that statute is to provide that landlords of dwelling-houses and business premises, to which it applies, shall not be at liberty to raise the rent of, or eject their tenants from, those premises. A limited permission to raise the rent is granted by § 2 (1), as amended in the case of business premises by § 13 (1). On the other hand, the operation of the Act is retrospective, and by the joint effect of §§ 1 and 14 (1) any increase since March 25, 1920, which is not now expressly authorised is recoverable from the landlord.

The grounds upon which a landlord may recover possession of a dwelling-house are set out in § 5 (1), and of business premises in §§ 5 (1) and 13 (1).

One of these grounds is that he reasonably requires it for occupation as a residence for himself or an employee, or in the case of business premises, for business, trade or professional purposes. He has, however, further to satisfy the Court that alternative accommodation is available for the tenant, except in four cases. The first of these is designed to meet those occasions where an employer has provided accommodation for his servant, and does not apply to business premises. The second seeks to assure a house to agricultural workers. The third provides for members of His Majesty's forces who had to let their houses because of their war service; and the last for purchasers who bought a house with a view to living in it before September 30, 1917, or, if the home is one to which the 1919 Act did, but the 1915 Act did not, apply, before March 5, 1919, or, if the house is one coming within the scope of these Acts for the first time, before May 20, 1920. The Court, however, in this fourth case has to be further satisfied that greater hardship would be caused by refusing, than by granting, an order for possession.

The operation of the Act is confined to premises of which either the annual amount of the standard rent or the rateable value does not exceed, in the Metropolitan Police district £105, in Scotland £90, and elsewhere £78. If the annual standard rent is £150, but the annual rateable value is £105, the house, if in London, will be within the Act, for the words are "*either* the annual amount of standard rent *or* the rateable value does not exceed." [§ 12 (2).]

Premises erected or converted into flats after, or in course of erection or conversion on, April 2, 1919, are excluded from the operation of the Act [§ 12 (9).]

The requirement of premiums is now made a criminal offence punishable on summary conviction by a fine of £100 [§ 8 (2).]

A notice of increase of rent containing a false or misleading statement [§ 3 (2)], or a refusal to state in writing what is the standard rent, or a false statement of it, are punishable by a fine of £10 [§ 11], and the making of entries in a rent-book showing a tenant as in arrear in respect of a sum irrecoverable under the Act is punishable in like manner [§ 14 (2).]

Those who let their houses furnished are likewise restrained from charging more than 25 per cent. above the normal profit, which means that profit which might reasonably have been expected from a similar letting in the year ending August 3, 1914 [§ 9.] And persons making an extortionate profit from furnished houses are liable, on summary conviction, to a fine of £100 [§ 10.]

The position of tenants retaining possession by virtue of the provisions of this Act after the termination of their tenancies is also provided for. Such a tenant must observe, and will be entitled to the benefit of, all the terms and conditions of the original contract of tenancy, so far as they are consistent with this Act [§ 15 (1).] He must give the notice which would have been required under the original contract of tenancy, if he desires to give up possession [*Ibid.*], and must accept no consideration for giving up possession from anyone other than the landlord under penalty of £100 [§ 15 (2).]

A landlord, by accepting rent for three months after the notice to quit, which he has served, has expired, shall

not be deemed to prejudice his right to possession [§ 16 (3).]

The Act applies to mortgages on, as well as to rents of, premises as specified in §§ 12 (2) and (9) and 13, and mortgagees of such premises are only permitted as from March 25, 1920, to increase the rate of interest on their mortgages to the limited extent prescribed by § 4. Increases since that date, not now permitted, are recoverable by the mortgagor [§§ 1 and 14 (1).]

Apart, however, from these statutes, it is necessary to bear in mind the operation upon the law of landlord and tenant of another branch of emergency legislation—the Courts (Emergency Powers) Acts, 1914 to 1919.

By the Courts (Emergency Powers) Act, 1914 (4 & 5 Geo. V. c. 78), which was amended so far as it referred to Ireland by the Courts (Emergency Powers) (Ireland) Act, 1914 (5 Geo. V. c. 19), "no person shall:—

"(*a*) proceed to execution on, or otherwise to the enforcement of, any judgment or order of any Court . . . for the payment or recovery of a sum of money to which this sub-section" [*i.e.*, § 1 (1)] "applies, except after such application to such Court and such notice as may be provided for by rules or directions under this Act; or

"(*b*) levy any distress, take, resume or enter into possession of any property, exercise any right of re-entry, foreclose, realise any security (except by way of sale by a mortgagee in possession), forfeit any deposit, or enforce the lapse of any policy of insurance to which this sub-section" [*i.e.*, § 1 (1)] "applies, for the purpose of enforcing the payment or recovery of any sum of money to which this sub-section applies, or, in default of the payment or recovery of any such sum of money, except after such application to such Court and such notice as

may be provided for by rules or directions under this Act."

"This sub-section" [*i.e.*, § 1 (1)] "shall not apply to any sum of money (other than rent not being rent at or exceeding £50 per annum) due and payable in pursuance of a contract made after the beginning of" August 4, 1914.

If the Court is of opinion that the inability to pay is attributable to the present war, it may, in its absolute discretion, after considering all the circumstances of the case and the position of all the parties, by order, stay execution or defer the operation of any of the above-mentioned remedies for such time and subject to such conditions as the Court thinks fit [§ 1 (2).]

The Act applies to all proceedings for the recovery of possession of tenements under the Small Tenements Recovery Act, 1838 (1 & 2 Vict. c. 74), as if they were in all cases proceedings for the payment or recovery of a sum of money due and payable on account of rent [§ 1 (4).]

By the Courts (Emergency Powers) (Amendment) Act, 1916 (6 & 7 Geo. V. c. 13), as amended by the Courts (Emergency Powers) Act, 1917 (7 & 8 Geo. V. c. 25), the 1914 Act is to have effect in favour of members of His Majesty's forces, with two modifications:—

(*a*) § 1 (1) is to apply to any sum of money due and payable in pursuance of a contract made before April 11, 1916 (instead of August 4, 1914, as in the principal Act), or before the officer or man has joined His Majesty's forces. (*Cf. In re A Debtor*, 35 T. L. R. 58.)

(*b*) The discretionary powers of the Court under sub-section 2 may be exercised although the debtor's inability

to pay may not be due to circumstances attributable directly or indirectly to the present war.

A member of His Majesty's forces who is the tenant of any premises under a tenancy from year to year or for any longer period may apply to the County Court, or in Scotland the Sheriff Court, for the district in which he usually resides, or in which such premises are situate, for leave to determine such tenancy; and the Court in its absolute discretion may authorise the applicant to determine the tenancy by such notice and on such conditions as the Court thinks fit [§ 2]. (*Cf. Tozer* v. *Viola* [1918] 1 Ch. 75; *Revill* v. *Bethell* [1918] 1 K. B. 638; *Daniell* v. *Carter* [1918] W. N. 380.)

The Courts (Emergency Powers) (No. 2) Act, 1916, (6 & 7 Geo. V. c. 18), defines the words "enter into possession" and "a mortgagee in possession," and enacts that the provisions relating to foreclosure shall extend to the institution of proceedings for foreclosure and for sale in lieu of foreclosure [§ 1 (1).]

The Courts (Emergency Powers) Act, 1917 (7 & 8 Geo. V. c. 25), § 1 (2), provides that "any party to any contract whatsoever" may apply to the Court to suspend or annul the contract on the ground that a term of the contract cannot be enforced without serious hardship owing to restrictions imposed by an enactment relating to the defence of the realm or any regulation made thereunder. (*Cf.* also *Boyce* v. *Hill* [1918] 2 K. B. 616; *Cody* v. *Copland*, 63 S. J. 760.)

And by § 2 of the same Act, where by virtue of any contract of tenancy, any person is bound to do or abstain from doing any act, and is prevented by such regulations as aforesaid, he shall not be liable to an injunction or to pay any sum of money for failure to do or doing it (as the

case may be), so far as such failure is attributable to compliance with such regulations.

The operation of these Courts (Emergency Powers) Acts has been extended by the War Emergency Laws (Continuance) Act, 1920 (10 Geo. V. c. 5), to twelve months after the termination of the present war. As to when that is to be, see The Termination of the Present War (Definition) Act, 1918 (8 & 9 Geo. V. c. 59). The necessary Order in Council has not yet been issued.

It is to be noted that the words "for the purpose of enforcing the payment or recovery of any sum of money" govern the rest of § 1 (*b*) of the Courts (Emergency Powers) Act, 1914, and, therefore, when re-entry is claimed for non-payment of rent, leave must be obtained, but judgment for recovery of possession after a tenancy has been determined by notice to quit may be executed without leave even though the ground upon which judgment was given was that rent lawfully due from the tenant had not been paid within the meaning of § 5 (1) of the present Act. (*Cf.* Annual Practice [1920] 1334.)

Note also that mesne profits are in the nature of damages, and the Courts (Emergency Powers) Acts do not apply to torts. (*Ibid.*, 1334, and Courts (Emergency Powers) Act, 1917 (7 & 8 Geo. V. c. 25), § 6.)

In dealing with the construction of emergency legislation, regard must be had "as in other statutes, to the plain meaning of the language used, yet, as they restrict the ordinary rights of individuals arising from their mutual contracts and relationships. they should not be needlessly extended beyond the particular mischiefs they are designed to avoid or remedy"—*per* Bray, J., in *Wilcock* v. *Booth* [1920] W. N., at p. 45.

CHAPTER II.

RESTRICTIONS ON INCREASE OF RENT AND MORTGAGE INTEREST.

A. *General Restrictions.*

CHAPTER 17.

An Act to consolidate and amend the Law with respect to the increase of rent and recovery of possession of premises in certain cases, and the increase of the rate of interest on, and the calling in of securities on such premises, and for purposes in connection therewith.

BE IT ENACTED, ETC. [2nd July, 1920.]

1. Subject to the provisions of this Act, where the rent of any dwelling-house to which this Act applies, or the rate of interest on a mortgage to which this Act applies, has been, since the twenty-fifth day of March, nineteen hundred and twenty, or is hereafter, increased, then, if the increased rent or the increased rate of interest exceeds by more than the amount permitted under this Act the standard rent or standard rate of interest, the amount of such excess shall, notwithstanding any agreement to the contrary, be irrecoverable from the tenant or the mortgagor, as the case may be:

Provided that, where a landlord or mortgagee has increased the rent of any such dwelling-house or the rate of interest on any such mortgage since the said date, but before the passing of this Act, he may cancel such increase and repay any amount paid by virtue thereof, and in that case the rent or rate shall not be deemed to have been increased since that date.

Cf. 1915 Act, § 1 (1) and 1919 Act, § 4.

For definition of "standard rent" and "standard rate of interest," v. § 12 (1) (*a*) and (*b*); "landlord" and "tenant," v. § 12 (1) (*f*) and (*g*); "mortgage," v. § 12 (1) (*h*); "mortgagee" and "mortgagor," v. § 12 (1) (*f*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For mortgages to which this Act applies, v. § 12 (4).

Rent is "increased since March 25, 1920," within the meaning of this section if the increased rent was first payable after, even though the agreement to pay the increased rent was made before, that date. *Cf. Goldsmith* v. *Orr* [1920] W. N. 250.

By parity of reasoning, it is submitted that the same rule applies to increased rate of interest on a mortgage.

For "amount permitted under this Act," v. §§ 2 and 3, as regards rent, and § 4 as regards mortgage interest.

For means of recovery by the tenant of sums that are irrecoverable by the landlord, but paid by the tenant, v. § 14 (1).

For criminal liability of landlord in certain cases, v. § 14 (2).

A curious point arose in the case of *Baker* v. *Wood* [1919] W. N. 312; confirmed on appeal [1920] W. N. 53, with reference to the effect of the Corn Production Act, 1917 (7 & 8 Geo. V. c. 46), on increase of rent. A farm labourer was employed in 1902 at 14s. a week, and two years later was allowed by his employer to occupy a cottage, and 1s. a week was deducted from his wages. These rose from time to time, but 1s. a week was always deducted in respect of his occupation of the cottage. In 1917 a minimum wage of 25s. a week for farm labourers was imposed under the Corn Production Act of that year, and farmers were authorised by orders made under that Act to deduct 3s. a week in respect of the provision of a cottage. The farmer in this case thereupon deducted not 1s. but 3s. a week. *Held*, that he was entitled so to do, and that he had not increased the rent of the cottage within the meaning of these Acts.

The fact that since August 3, 1914, a house has been let to a new tenant does not prevent the Increase of Rent, &c., Acts from applying to such a house—*King* v. *York* [1919] W. N. 59.

The provisions of the Landlord and Tenant Act, 1730 (4 Geo. II. c. 28), entitling a landlord to recover double value in respect of premises where a tenant holds over, has no application to the case of a tenant continuing in possession under the present Acts, for the tenant is entitled to remain in possession under a claim of right and does not do so contumaciously—*Crook* v. *Whitbread* [1919] W. N. 185.

The same case further decided that the landlord could not claim a sum for use and occupation of the premises, for to allow it would defeat the whole object of the present Acts, since the landlord would be able to bring a fresh action *de die in diem*, which might so harass the defendant that he would be compelled to give up possession for the sake of peace. Accordingly the defendant would remain tenant on the terms of his former tenancy.

On the other hand, if a tenant himself gives notice to quit and then holds over, the landlord can recover double rent under § 18 of the Distress for Rent Act, 1737 (11 Geo. II. c. 19)—*Flannagan* v. *Shaw* [1919] W. N. 287.

B. *Permitted Increases in Rent.*

2.—(1) The amount by which the increased rent of a dwelling-house to which this Act applies may exceed the standard rent shall, subject to the provisions of this Act, be as follows, that is to say:—

(*a*) Where the landlord has since the fourth day of August nineteen hundred and fourteen incurred, or hereafter incurs, expenditure on the improvement or structural alteration of the dwelling-house (not including expenditure on decoration or repairs), an amount calculated at a rate per annum not exceeding six, or, in the case of such expenditure incurred after the passing of this Act, eight per cent. of the amount so expended:

Provided that the tenant may apply to the county court for an order suspending or reducing such increase on the ground that such expenditure is or was unnecessary in whole or in part, and the court may make an order accordingly:

(*b*) An amount not exceeding any increase in the amount for the time being payable by the landlord in respect of rates over the corresponding amount paid in respect of the yearly, half-yearly or other period which included the third day of August nineteen hundred and fourteen, or in the case of a dwelling-house for which no rates were payable in respect of any period which included the said date, the period which included the date on which the rates first became payable thereafter:

(*c*) In addition to any such amounts as aforesaid, an amount not exceeding fifteen per centum of the net rent:

Provided that, except in the case of a dwelling-house to which this Act applies but the enactments repealed by this Act did not apply, the amount of such addition shall not, during a period of one year after the passing of this Act, exceed five per cent.:

(*d*) In further addition to any such amounts as aforesaid—

(i) where the landlord is responsible for the whole of the repairs, an amount not exceeding twenty-five per cent. of the net rent; or

(ii) where the landlord is responsible for part and not the whole of the repairs, such lesser amount as may be agreed, or as may, on the application of the landlord or the tenant, be determined by the county court to be fair and reasonable having regard to such liability:

(*e*) In the case of dwelling-houses let by a railway company to persons in the employment of the company, such additional amount, if any, as is required in order to give effect to the agreement dated the first day of March nineteen hundred and twenty, relating to the rates of pay and conditions of employment of certain persons in the employment of railway companies, or any agreement, whether made before or after the passing of this Act, extending or modifying that agreement.

Cf. 1915 Act, § 1 (1) (ii) and (iv); 1919 Act, § 2 (1).

For definition of "standard rent," v. § 12 (1) (*a*); "landlord," v. § 12 (1) (*f*) and (*g*); "rates," v. § 12 (1) (*d*); "net rent," v. § 12 (1) (*c*); "tenant," v. § 12 (1) (*f*) and (*g*); "repairs," v. § 2 (5).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For form of summons under this section, v. Appendix V., Form 1.

As to limitation of § 2 (1) (*b*) in its application to Scotland, v. § 18 (1) (*b*).

The notice required by § 1 (1) (vi) of the 1915 Act is reproduced in § 3 (2) of this Act. One week's notice must be given to the tenant of an increase under § 2 (1) (*b*), and four weeks' notice of other increases hereby authorised—v. § 3 (2).

For amendment of § 2 (1) (*c*) in its application to business premises, v. § 13 (1) (*a*).

For the application of the words "for the time being payable," *cf.* the case of *W. H. Sutton & Sons* v. *Holleston* [1918] W. N. 237. *E.g.*, if the rates for the year 1914 were £1, and the rates for the year 1920 are £1 10s., one fifty-second part of 10s. may be added to each week's rent during 1920. The rating period for 1914 will be that which includes August 3, *e.g.*, June 25, 1914, to June 24, 1915. If that is so, the rating period for 1920, with which comparison is made, must be the corresponding one, *i.e.*, June 25, 1920, to June 24, 1921.

A landlord is entitled to increase the rent by the amount of actual increase in the rates, not only where such increase is due to an increase in the rates, but also where it is caused by an increase in the rateable value of the premises—*Steel* v. *Mahoney* [1918] W. N. 253.

Where rates were increased after August 3, 1914, but before the

1915 Act came into force, the landlord was held unable to continue to charge the tenant that increase after the 1915 Act came into force, unless and until he gave notice as required by § 1 (1) (vi) of that Act. *Cf.* § 3 (2) of this Act—*Bridges* v. *Chambers* [1919] W. N. 34. *Cf.* also *Wortley* v. *Mann* [1916] W. N. 390.

The landlord may increase the rent by the amount of the increase of the rates payable in respect of the premises, although he himself may be allowed a commission by the overseers under the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), § 3—*Nicholson* v. *Jackson* [1920] W. N. 186.

The rent is increased by the service of a notice irrespective of any agreement by the tenant to pay the increased rent—*The Cork Improved Dwellings Co.* v. *Barry* [1919] 2 I. R. 244; and the landlord is entitled to increase the rent in respect of the increase in the amount of the poor rate, but not in respect of the increase in the amount of the rates levied under local Acts incorporating the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34)—*Ibid.*

The Housing, Town Planning, &c. Act, 1909 (9 Edw. VII. c. 44), § 14, enacts:

"In any contract made after" December 3, 1909, "for letting for habitation a house or part of a house at a rent not exceeding:—

(*a*) in the case of a house situate in the administrative county of London, forty pounds;

(*b*) in the case of a house situate in a borough or urban district with a population according to the last census for the time being of fifty thousand or upwards, twenty-six pounds;

(*c*) in the case of a house situate elsewhere, sixteen pounds;

there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation, but the condition aforesaid shall not be implied when a house or part of a house is let for a term of not less than three years upon the terms that it be put by the lessee into a condition reasonably fit for occupation, and the lease is not determinable at the option of either party before the expiration of that term."

The short effect of this sub-section [§ 2 (1)] may perhaps be best explained with an illustration. Assume a house within the Metropolitan Police District to have been let on August 3, 1914, at £100 a year, the landlord paying rates and doing repairs. Since August 4, 1914, the landlord has spent £100 on structural alterations, and another £100 since July 2, 1920.

The rates in 1914 were £25; they are now £50 per annum.

Assuming the landlord but for this Act would be entitled to obtain possession of the house (v. § 3 (1)), and the required notice had been

given to the tenant (v. § 3 (2)), the landlord could increase the rent as under:—

	£100.	Standard rent.
add	£6.	*I.e.*, 6% on £100 expended since August 4, 1914, on structural alterations.
add	£8.	*I.e.*, 8% on £100 expended in like manner since July 2, 1920.
add	£25.	Increased rates.
add	£3 15s.	*I.e.*, 5% on £75 net rent (*i.e.*, £100 standard rent, less £25 rates paid in 1914). After July 2, 1921, the landlord will be able to add a further £7 10s. [§ 2 (1) (*c*).]
add	£18 15s.	*I.e.*, 25% on £75 net rent.
	£161 10s.	Total present rent.

(2) At any time or times, not being less than three months after the date of any increase permitted by paragraph (*d*) of the foregoing sub-section, the tenant or the sanitary authority may apply to the county court for an order suspending such increase, and also any increase under paragraph (*c*) of that sub-section, on the ground that the house is not in all respects reasonably fit for human habitation, or is otherwise not in a reasonable state of repair.

The court on being satisfied by the production of a certificate of the sanitary authority or otherwise that any such ground as aforesaid is established, and on being further satisfied that the condition of the house is not due to the tenant's neglect or default or breach of express agreement, shall order that the increase be suspended until the court is satisfied, on the report of the sanitary authority or otherwise, that the necessary repairs (other than the repairs, if any, for which the tenant is liable) have been executed, and on the making of such order the increase shall cease to have effect until the court is so satisfied.

Cf. 1919 Act, § 2 (1).

For definition of "tenant," v. § 12 (1) (*f*) and (*g*); "repairs," v. § 2 (5).

For form of summons under this section, v. Appendix V., Form I.

(3) Any transfer to a tenant of any burden or liability previously borne by the landlord shall, for the purposes of this Act, be treated as an alteration of rent, and where, as the result of such a transfer, the terms on which a dwelling-house is held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased, and any increase of rent in respect of any transfer to a landlord of any burden or liability previously borne by the tenant where, as the result of such transfer, the terms on which any dwelling-house is held are on the whole not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent for the purposes of this Act: Provided that, for the purposes of this section, the rent shall not be deemed to be increased where the liability for rates is transferred from the landlord to the tenant, if a corresponding reduction is made in the rent.

Cf. 1915 Act, § 1 (1) (iii).

For definition of "landlord" and "tenant," v. § 12 (1) (*f*) and (*g*).

For form of summons for determination of a question under this section, v. Appendix V. Form 1.

For form of certificate on application under this section, v. Appendix V. Form 4.

(4) On any application to a sanitary authority for a certificate or report under this section a fee of one shilling shall be payable, but, if the authority as the result of such application issues such a certificate as aforesaid, the tenant shall be entitled to deduct the fee from any subsequent payment of rent.

(5) For the purposes of this section, the expression "repairs" means any repairs required for the purpose of keeping premises in good and tenantable repair, and any premises in such a state shall be deemed to be in a reasonable state of repair, and the landlord shall be deemed to be responsible for any repairs for which the tenant is under no express liability.

Cf. 1919 Act, § 2 (2).

For definition of "landlord" and "tenant," v. § 12 (1) (*f*) and (*g*).

(6) Any question arising under sub-section (1), (2) or (3) of this section shall be determined on the application either of the landlord or the tenant by the county court, and the decision of the court shall be final and conclusive.

Cf. 1915 Act, § 1 (1) (iii).

For definition of "landlord" and "tenant," v. § 12 (1) (*f*) and (*g*).

For form appropriate for summons, v. Appendix V. Form 1.

For form of certificate on application under § 2 (3), v. Appendix V. Form 4.

3.—(1) Nothing in this Act shall be taken to authorise any increase of rent except in respect of a period during which but for this Act the landlord would be entitled to obtain possession, or any increase in the rate of interest on a mortgage except in respect of a period during which, but for this Act, the security could be enforced.

This sub-section is new, and declaratory only. *Cf. Connolly* v. *Whelan* [1920] Ir. L. T. 18.

For definition of "landlord," v. § 12 (1) (*f*) and (*g*); "mortgage," v. § 12 (1) (*h*).

According to the general law, on the determination of a tenancy, the landlord and tenant may enter into such new agreement as they please. This Act restricts the power of the landlord to bring pressure upon his tenant by reason of the shortage of house accommodation, but does not interfere with the enjoyment by the tenant of the benefit of an existing tenancy.

(2) Notwithstanding any agreement to the contrary, where the rent of any dwelling-house to which this Act applies is increased, no such increase shall be due or recoverable until or in respect of any period prior to the expiry of four clear weeks, or, where such increase is on account of an increase in rates, one clear week, after the landlord has served upon the tenant a valid notice in writing of his intention to increase the rent, which notice shall be in the form contained in the First Schedule to this Act, or in a form substantially to the same effect. If a notice served as aforesaid contains any statement or representation which is false or misleading in any material respect, the landlord shall be liable on summary

conviction to a fine not exceeding ten pounds unless he proves that the statement was made innocently and without intent to deceive. Where a notice of an increase of rent which at the time was valid has been served on any tenant, the increase may be continued without service of any fresh notice on any subsequent tenant.

Cf. 1915 Act, § 1 (1) (vi).

For definition of "landlord" and "tenant," v. § 12 (1) (*f*) and (*g*); "rates," v. § 12 (1) (*d*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For increases permitted, v. § 2 (1).

One month's notice must be given of increases under § 2 (1) (*a*), (*c*), and (*d*), and one week's of increases under § 2 (1) (*b*).

For other criminal responsibility of the landlord, v. §§ 8 (2), 10, 11, and 14 (2).

For criminal responsibility of tenants, v. § 15 (2).

In the case of *Wortley* v. *Mann* [1916] W. N. 390, decided under the 1915 Act, § 1 (1) (vi), a landlord sought to justify an increase of rent on the ground that he had since the commencement of the war incurred expenditure on improvements within § 1 (1) (ii) of the 1915 Act (reproduced in § 2 (1) (*a*) of the present Act). He had, however, given no notice in writing. The tenant paid the increased rent for a time, and then refused to pay the increase. The landlord then claimed possession. The tenant tendered the standard rent.

The Divisional Court held (1) that the increase dealt with in § 1 (ii) is referred to in § 1 (1) (vi) as an increase "by this Act permitted," and (2) that, no notice having been given, such increase was irrecoverable.

(3) A notice served before the passing of this Act of an intention to make any increase of rent which is permissible only by virtue of this Act shall not be deemed to be a valid notice for the purpose of this section.

"Before the passing of this Act," *i.e.*, July 2, 1920.

C. *Permitted Increases in Mortgage Interest.*

4. The amount by which the increased rate of interest payable in respect of a mortgage to which this Act applies may exceed the standard rate, shall be an amount not exceeding one per cent. per annum:

Provided that—

(*a*) the rate shall not be increased so as to exceed six and a half per cent. per annum; and

(*b*) except in the case of a dwelling-house to which this Act applies but the enactments repealed by this Act did not apply, the increase during a period of one year after the passing of this Act shall not exceed one-half per cent. per annum.

Cf. 1919 Act, § 3.

For definition of "mortgage," v. 12 (1) (*h*); "standard rate," v. § 12 (1) (*b*).

For mortgages to which this Act applies, v. § 12 (4).

An illustration may most simply explain the operation of this section. Assume a mortgagor to have borrowed £500 at 5½% on a house in the Metropolitan police district let at £80 per annum in 1914, the mortgagee may increase the rate to 6% and after July 2, 1921, to 6½%.

CHAPTER III.

OTHER RESTRICTIONS AND OBLIGATIONS ON LANDLORDS AND MORTGAGEES.

A. *Restrictions on Right to Possession.*

5. (1) No order or judgment for the recovery of possession of any dwelling-house to which this Act applies, or for the ejectment of a tenant therefrom, shall be made or given unless—

(*a*) any rent lawfully due from the tenant has not been paid, or any other obligation of the tenancy (whether under the contract of tenancy or under this Act) so far as the same is consistent with the provisions of this Act has been broken or not performed; or

(*b*) the tenant or any person residing with him has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the dwelling-house has, in the opinion of the court, deteriorated owing to acts of waste by or the neglect or default of the tenant or any such person; or

(*c*) the tenant has given notice to quit, and in consequence of that notice the landlord has contracted to sell or let the dwelling-house or has taken any other steps as a result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession; or

(*d*) the dwelling-house is reasonably required by the landlord for occupation as a residence for himself, or for any person bona fide residing or to reside with him, or for some person in his whole time employment or in the

whole time employment of some tenant from him, and (except as otherwise provided by this sub-section) the court is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects, is available; or

(*e*) the landlord is a local authority or a statutory undertaking and the dwelling-house is reasonably required for the purpose of the execution of the statutory duties or powers of the authority or undertaking, and the court is satisfied as aforesaid as respects alternative accommodation; or

(*f*) the landlord became the landlord after service in any of His Majesty's forces during the war and requires the house for his personal occupation and offers the tenant accommodation on reasonable terms in the same dwelling-house, such accommodation being considered by the court as reasonably sufficient in the circumstances; or

(*g*) the dwelling-house is required for occupation as a residence by a former tenant thereof who gave up occupation in consequence of his service in any of His Majesty's forces during the war;

and, in any such case as aforesaid, the court considers it reasonable to make such an order or give such judgment.

The existence of alternative accommodation shall not be a condition of an order or judgment on any of the grounds specified in paragraph (*d*) of this sub-section—

(i) where the tenant was in the employment of the landlord or a former landlord, and the dwelling-house was let to him in consequence of that employment and he has ceased to be in that employment; or

(ii) where the court is satisfied by a certificate of the county agricultural committee, or of the Minister of Agriculture and Fisheries pending the formation of such committee, that the dwelling-house is required by the landlord for the occupation of a person engaged on work necessary for the proper working of an agricultural holding; or

(iii) where the landlord gave up the occupation of the dwelling-house in consequence of his service in any of His Majesty's forces during the war; or

(iv) where the landlord became the landlord before the thirtieth day of September nineteen hundred and seventeen, or, in the case of a dwelling-house to which section four of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1919, applied, became the landlord before the fifth day of March, nineteen hundred and nineteen, or in the case of a dwelling-house to which this Act applies but the enactments repealed by this Act did not apply, became the landlord before the twentieth day of May nineteen hundred and twenty, and in the opinion of the Court greater hardship would be caused by refusing an order for possession than by granting it.

Cf. 1915 Act, § 1 (3), repealed and re-enacted with amendments by 1919 (No. 2) Act, § 1. *Cf.* also 1918 Act.

For definition of "landlord" and "tenant," v. § 12 (1) (*f*) and (*g*); "let," v. 12 (1) (*g*); "tenancy," v. § 12 (1) (*g*); "statutory undertaking," v. § 12 (1) (*i*); "statutory duties or powers," v. § 12 (1) (*i*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For conditions of tenancy under this Act, v. § 15 (1).

For limitation of § 5 (1) (*d*) in its application to business premises, v. § 13 (1) (*b*). § 5 (1) (i) does not apply to business premises, v. § 13 (1) (*d*). § 5 1 (ii) is amended in its application to Ireland by § 18 (2) (*e*).

For additional ground for recovery of business premises, v. § 13 (1) (*c*).

As to the conditions of tenancy under this Act, v. § 15, which section lays at rest considerable doubts which formerly existed as to the exact nature of the tenancy where a tenant remained in possession solely by virtue of the operation of the Acts.

By nuisance is meant "an inconvenience materially interfering with the ordinary comfort physically of human existence, not merely according to elegant or dainty modes and habits of living, but according to plain and sober and simple notions among the English people"—*per* Knight-Bruce, V.C., in *Walter* v. *Selfe*, 4 D. G. & S. 315, at p. 322. *Cf.* also a Scots case decided under 1915 Act, § 1 (3)—*Ferguson* v. *Butler*, [1918] 2 Scots L. T. 228.

Waste is either voluntary or permissive. "Voluntary waste implies the doing of some act which tends to the destruction of the premises,

e.g., removing fixtures. Permissive waste implies an omission whereby damage results to the premises, *e.g.*, where houses are suffered to fall into decay"—*Halsbury's Laws of England*, vol. 18, p. 496.

The words "unless any rent lawfully due from the tenant has not been paid" have been substituted for the words "so long as the tenant continues to pay rent at the agreed rate as modified by the principal Act or any of the Acts amending the same" in the 1919 (No. 2) Act. Interpreting those words, Lawrence, J., decided in the case of *Beavis* v. *Carman* [1920] W. N. 159 that a tenant who was in default in payment of rent at the date when the writ was issued could not remedy his default by paying into Court the sums due after issue of the writ, for the matter crystallised at the date of the writ. In the course of his judgment, as reported in 26 T. L. R. 396, he said: "It seems to me that if the defendant wanted to put himself within the protection of the Acts, he should on receiving the notice have paid the arrears of rent forthwith, and he should have paid the last quarter duly according to the agreement."

Presumably, the same considerations would apply under the new wording, and this case may still be taken to be the law.

Leave of the Court is not necessary under § 1 (1) (*b*) of the Courts (Emergency Powers) Act, 1914, to entitle a landlord to bring an action against his tenant to recover possession of demised premises under a clause of re-entry for non-payment of rent, but is necessary for the issue of a writ of possession upon a judgment so obtained—*Ness* v. *O'Neil* [1916] 1 K. B. 706. *Cf.* also the observations of Warrington, L. J. (then J.) in *In re Farnol Eades Irvine & Co., Ltd.* [1915] 1 Ch. 22, at p. 24.

The fact that the tenancy has been determined by notice given by the tenant does not preclude him from retaining possession under the Act—*Hunt* v. *Bliss* [1919] W. N. 331. This decision, which was given under the former Act, must be considered, however, subject to § 5 (1) (*c*).

The meaning of the words "reasonably required" in sub-section (1) (*d*) was considered in *Epsom Grand Stand Association, Ltd.* v. *Clarke and Wife* [1919] W. N. 170 Bankes, L.J., said: "The plaintiffs must satisfy the Court that the premises are reasonably required; and that they are acting reasonably in requiring them."

The meaning of the word "dwelling-house" was also discussed in the same case; and the Court of Appeal held that the object of the Legislature was to include all houses which are occupied as dwelling-houses, provided they are of the class ascertained by their value as prescribed by the Act, notwithstanding that they are also used by the tenant for other purposes as well as those of a dwelling-house. *Cf.* also *Ellen* v. *Goldstein* [1920] W. N. 253.

In the case of *R.* v. *Rogers* [1918] W. N. 128, a landlord claimed possession of premises on the ground that he required them for the

occupation of someone in his employ, and also because the tenant was a nuisance to adjoining occupiers. The employee of that landlord for whom the premises were alleged to be required was not at the time of the hearing actually in the employ of the landlord. The Court of first instance, however, was satisfied that the landlord had brought himself within § 1 (3) of the 1915 Act, and refused to hear the tenant on the question of "nuisance." *Held*, on application for a *mandamus*, that the rule must be made absolute, and by a majority of the Court (Atkin, J., doubting) that "in his employ" meant "already in his employ." Atkin, J., said: "Possibly it is sufficient if the person is in the landlord's employ at the time when the ejectment order is made."

Note the words "whole time employment." These words were rendered necessary by the decision in *Wall* v. *Gibbs* [1920] W. N. 187.

The Act of 1915 had added after the words "in his employ," &c., "or on some other ground which may be deemed satisfactory by the Court making such order." These words are now omitted. A landlord seeking to get possession for a purchaser to whom he has sold the house does not come within these words—*Stovin* v. *Fairbrass* [1919] W. N. 216. *Cf.* also *Price* v. *Pritchard* [1920] W. N. 9; and *The Vernon Investment Association* v. *Welch* [1919] W. N. 173. This is so even where the landlord desires to sell the house for the purpose of raising funds to emigate for the sake of his health—*Stephens* v. *Tatham* [1919] W. N. 334. In the case of *Green-Price* v. *Webb* [1919] W. N. 261, it was held that, where the tenant has himself terminated the tenancy by notice and suggested a new tenant to the landlord, the former tenant can be ejected, for these circumstances do constitute "some other ground within the meaning of that section. *Cf.* also *Smith* v. *Barclay* [1920] 1 Scots L. T. 13. *Cf.*, however, *Hunt* v. *Bliss* [1919] W. N. 331; and *Artizans, Labourers and General Dwellings Co.* v. *Whitaker* [1919] 2 K. B. 301.

Under the former Acts it was held, in *Smith* v. *Bridgen* [1920] W. N. 106, that affirmative evidence of alternative accommodation was not essential, and that the Court had a discretion to make an order if, after considering all the circumstances of the case, it appeared reasonable to do so. *Cf.* also *Bazalgette* v. *Hampson* [1920] W. N. 59, and *Kieran* v. *Dunne* [1920] Ir. L. T. 51. The wording of the present Act is, however, modified; and it is now provided that in three specified cases "the existence of alternative accommodation shall not be a condition of an order," and inferentially it is submitted in cases other than those specified shall be a condition.

Cf. also *Lamb* v. *Graham* [1919] 2 Scots L. T. 28, and *Paul and others* v. *Blench* [1919] 2 Scots L. T. 191.

By alternative accommodation is meant alternative dwelling-house accommodation, so that, if premises are used for a shop and as a dwelling-house, the landlord can recover possession subject to the Act if he shows evidence of alternative dwelling-house accommodation for

his tenant, but the Court may consider the position of the alternative dwelling-house—*Wilcock* v. *Booth* [1920] W. N. 44.

This, however, must now be considered in conjunction with § 13.

Where a husband who is separated from his wife by an order of Court takes a dwelling-house for his wife and children and resides elsewhere himself, and on the expiry of the term the landlord of the dwelling-house where the wife and children are living takes proceedings against him to recover possession, accommodation for the wife and children where the husband is residing is not "alternative accommodation," as the effect would be to cancel the separation order—*Crutchley* v. *White* [1920] W. N. 218.

For the purpose of applying the provisions of this section the time to be considered is the time when the proceedings for recovery of possession are commenced, and not the date of the notice to quit—*Harcourt* v. *Lowe*, 35 T. L. R. 255.

The Court will not stay proceedings pending the passing of an Act which probably will give protection to the tenant: for the judiciary administers the law as it is—*Stringer* v. *Donovan* [1920] Ir. L. T. 139.

(2) At the time of the application for or the making or giving of any order or judgment for the recovery of possession of any such dwelling-house, or for the ejectment of a tenant therefrom, or in the case of any such order or judgment which has been made or given, whether before or after the passing of this Act, and not executed, at any subsequent time, the court may adjourn the application, or stay or suspend execution on any such order or judgment, or postpone the date of possession, for such period or periods as it thinks fit, and subject to such conditions (if any) in regard to payment by the tenant of arrears of rent, rent, or mesne profits and otherwise as the court thinks fit, and, if such conditions are complied with, the court may, if it thinks fit, discharge or rescind any such order or judgment.

Cf. 1915 Act, § 1 (3), and 1919 (No. 2) Act, § 1 (2).

For definition of "tenant," v. § 12 (1) (*f*) and (*g*).

For form of notice of application under this section, v. Appendix V. Form 7.

For form of order, v. Appendix V. Form 8.

It is not a judicial exercise of discretion to stay execution indefinitely and the Court cannot do so. *Kelly* v. *White* and *Penn-Gaskell* v. *Roberts*, both reported in [1920] W. N. 220.

(3) Where any order or judgment has been made or given before the passing of this Act, but not executed, and, in the opinion of the court, the order or judgment would not have been made or given if this Act had been in force at the time when such order or judgment was made or given, the court may, on application by the tenant, rescind or vary such order or judgment in such manner as the court may think fit for the purpose of giving effect to this Act.

Cf. 1915 Act, § 1 (3), and 1919 (No. 2) Act, § 1 (3).

For definition of "tenant," v. § 12 (1) (*f*) and (*g*).

For form of notice of application under this section, v. Appendix V. Form 7.

For form of order, v. Appendix V. Form 8.

(4) Notwithstanding anything in section one hundred and forty-three of the County Courts Act, 1888, or in section one of the Small Tenements Recovery Act, 1838, every warrant for delivery of possession of, or to enter and give possession of, any dwelling-house to which this Act applies, shall remain in force for three months from the day next after the last day named in the judgment or order for delivery of possession or ejectment, or, in the case of a warrant under the Small Tenements Recovery Act, 1838, from the date of the issue of the warrant, and in either case for such further period or periods, if any, as the court shall from time to time, whether before or after the expiration of such three months, direct.

Cf. 1919 (No. 2) Act, § 1 (4).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

The County Courts Act, 1888 (51 & 52 Vict. c. 43), § 143, enacts that every warrant to a bailiff to give possession of a tenement shall "on whatever day it may be issued, bear date on the day next after the last day named by the judge in his order for the delivery of possession of the premises in question, and shall continue in force from three months from such date and no longer, but no order for delivery of possession need be drawn up or served."

The Small Tenements Recovery Act, 1838 (1 & 2 Vict. c. 74), § 1, enacts that, where a tenant of premises held by him at will or for a term not exceeding seven years, whose lease has determined, where there is no rent, or where the rent does not exceed £20 a year, refuses to give up possession, the landlord may give him notice of his

intention to proceed to recover possession. If the tenant does not appear, or fails to show cause why he should not give possession, the justices may issue their warrant directing the constable to give the landlord possession.

(5) An order or judgment against a tenant for the recovery of possession of any dwelling-house or ejectment therefrom under this section shall not affect the right of any sub-tenant to whom the premises or any part thereof have been lawfully sublet, before proceedings for recovery of possession or ejectment were commenced, to retain possession under this section, or be in any way operative against any such sub-tenant:

This sub-section is new.

Note the words "for the recovery of possession of any dwelling house *under this section.*" A similar protection for sub-tenants when the dwelling-house, in which they are sub-tenants, is not within the Act, is provided by *Cottell* v. *Baker and Others* [1920] W. N. 46.

The first defendant in that case was the occupier of a shop, to which the Act did not apply. He had sub-let a number of rooms to different tenants at small weekly sums, so that they came within the protection of the Act. *Held,* that an order for possession must be made against him, but not against them.

It is material to note in this connection that it is no breach of a covenant not to under-let without consent to under-let part only of the demised premises—*Wilson* v. *Rosenthal* (1906) 22 T. L. R. 233.

(6) Where a landlord has obtained an order or judgment for possession or ejectment under this section on the ground that he requires a dwelling-house for his own occupation, and it is subsequently made to appear to the court that the order was obtained by misrepresentation or the concealment of material facts, the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as the result of the order or judgment.

This sub-section is new.

For definition of "landlord" and "tenant," v. § 12 (1) (f) and (*g*).

B. *Restrictions on Levy of Distress for Rent.*

6. No distress for the rent of any dwelling-house to which this Act applies shall be levied except with the leave of the county court, and the court shall, with respect to any application for such leave, have the same or similar powers with respect to adjournment, stay, suspension, postponement and otherwise as are conferred by the last preceding section of this Act in relation to applications for the recovery of possession:

Provided that this section shall not apply to distress levied under section one hundred and sixty of the County Courts Act, 1888.

The provisions of this section shall be in addition to and not in derogation of any of the provisions of the Courts (Emergency Powers) Act, 1914, or any Act amending or extending the same, except so far as those provisions are repealed by this Act.

This section is new.

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

The provisions of the Courts (Emergency Powers) Acts, so far as they are still operative, will be found in the Introduction at pp. 4 *et seq.*

The present Act repeals the Courts (Emergency Powers) Act, 1919, §§ 4, 5, and 7.

The County Courts Act, 1888 (51 & 52 Vict. c. 43), § 160, enacts that 8 Anne, c. 14, § 1, "shall not apply to goods taken in execution under the warrant of the Court, but the landlord of any tenement in which any such goods shall be so taken may claim the rent thereof at any time within five clear days from the date of such taking, or before the removal of the goods, by delivering to the bailiff or officer making the levy any writing signed by himself or his agent, which shall state the amount of rent claimed to be in arrear, and the time for and in respect of which such rent is due; and if such claim be made, the bailiff or officer making the levy shall, in addition thereto, distrain for the rent so claimed and the costs of such distress." Then follow provisions as to the sale of the goods.

8 Anne, c. 14, § 1, provides that "no goods or chattels whatsoever, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, at will or otherwise, shall be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution is sued out, shall before the removal of such goods from off the said premises, by virtue of such execution or extent, pay to the landlord of the said

premises or his bailiff, all such sum or sums of money as are or shall be due for rent for the said premises at the time of the taking such goods or chattels by virtue of such execution; provided the said arrears of rent do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party, at whose suit such execution is sued out, paying the said landlord or his bailiff, one year's rent, may proceed to execute his judgment, as he might have done before the making of this Act; and the sheriff or other officer is hereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent, as the execution money."

C. *Restrictions on Calling in Mortgages.*

7. It shall not be lawful for any mortgagee under a mortgage to which this Act applies, so long as—

(*a*) interest at the rate permitted under this Act is paid and is not more than twenty-one days in arrear; and

(*b*) the covenants by the mortgagor (other than the covenant for the repayment of the principal money secured) are performed and observed; and

(*c*) the mortgagor keeps the property in a proper state of repair and pays all interest and instalments of principal recoverable under any prior encumbrance,

to call in his mortgage or to take any steps for exercising any right of foreclosure or sale, or for otherwise enforcing his security or for recovering the principal money thereby secured:

Provided that—

(i) this provision shall not apply to a mortgage where the principal money secured thereby is repayable by means of periodical instalments extending over a term of not less than ten years from the creation of the mortgage, nor shall this provision affect any power of sale exerciseable by a mortgagee who was on the twenty-fifth day of March nineteen hundred and twenty a mortgagee in possession, or in cases where the mortgagor consents to the exercise by the mortgagee of the powers conferred by the mortgage; and

(ii) if, in the case of a mortgage of a leasehold interest the mortgagee satisfies the county court that his security is seriously diminishing in value or is otherwise in jeopardy, and that for that reason it is reasonable that the mortgage should be called in and enforced, the court may by order authorise him to call in and enforce the same, and thereupon this section shall not apply to such mortgage; but any such order may be made subject to a condition that it shall not take effect if the mortgagor within such time as the court directs pays to the mortgagee such portion of the principal sum secured as appears to the court to correspond to the diminution of the security.

Cf. 1915 Act, § 1 (4).

For definition of "mortgagee," v. § 12 (1) (*f*); "mortgage," v. § 12 (1) (*h*); "mortgagor," v. § 12 (1) (*f*).

For mortgages to which this Act applies, v. § 12 (4).

For permitted increases in rate of mortgage interest, v. § 4.

Note that sub-section (ii) of this section applies only to leasehold interests.

For form of summons for order authorising mortgagee to call in and enforce his mortgage, v. Appendix V. Form 2.

For form of order on such an application, v. Appendix V. Form 5.

In *The Dunfermline Building Co., Lim.* v. *Birrell* [1919] 2 Scots L. T. 14, mortgagees asked for a declaration that the mortgagor was not keeping the mortgage property in a proper state of repair, and for leave to exercise their right of foreclosure. *Held*, that they must first apply to the Court in the manner prescribed by the C. (E. P.) Act, 1914, § 1 (1).

In the case of *Welby* v. *Parker* [1916] 2 Ch. 1, the Court of Appeal, affirming the judgment of Eve, J., held that a mortgagee, under a mortgage to which the 1915 Act applied, who had issued a writ to enforce his security by foreclosure or sale before the Act came into operation, was, by applying by summons in chambers for an order *nisi*, taking a step for exercising his right of foreclosure, and could not proceed, inasmuch as the Act took away no rights, but only related to procedure and was retrospective.

The meaning of the words "take any steps for enforcing his security" was further considered in *Martin* v. *Watson & Egan* [1919] 2 I. R. 332. The interest of the mortgagee of a leasehold house became vested in the plaintiff. The mortgagor assigned his interest to A, who let the house to B, which lease was void as against the mortgagee. The plaintiff

brought an action of ejectment against the mortgagor, A and B. *Held*, that the plaintiff had taken a step for enforcing his security.

In the case of the *London County and Westminster Bank* v. *Tompkins* [1918] 1 K. B. 515, the defendant, by a deed dated December 14, 1912, declared that he had deposited deeds, &c., mentioned in a schedule as security for a present or future overdraft. *Held*, on the particular facts of that case, that the deed was not a "mortgage" within § 1 (4) of the 1915 Act, but was an equitable charge within § 2 (4) (*b*). *Cf.* § 12 (4) of the present Act. *Cf.* also *Jones* v. *Woodward* [1917] W. N. 61.

The words "nor shall," etc., in § 7 (i) may be found considered by Sargant, J., in *Walters* v. *White* [1917] W. N. 14. He there held that these words do not mean that in every case where a mortgagee is in possession his remedies are now limited to the exercising of his power of sale, but are inserted only *ex abundanti cautela*.

"A mortgagee in possession" has been held to mean, under § 1 (1) (*b*) of the Courts (Emergency Powers) Act, 1914, a mortgagee who has taken possession without leave of the Court—*In re Provident Association of London, Ltd., and Gollogaly's Contract* [1917] 1 Ir. R. 240—and by parity of reasoning that may be taken to be the meaning in the present Act. *Cf.* also Courts (Emergency Powers) (No. 2) Act, 1916, § 1 (1) (*c*), which defines "mortgagee in possession."

Effect must be given to the words "provided that this provision shall not apply . . . in cases where the mortgagor consents to the exercise by the mortgagee of the powers conferred by the mortgage" even when a third party is thereby prejudiced—*Graham's Trustees* v. *Dow's Trustees* [1917] 2 Scots L. T. 154.

D. *Restrictions on Premiums.*

8.—(1) A person shall not, as a condition of the grant, renewal, or continuance of a tenancy or sub-tenancy of any dwelling-house to which this Act applies, require the payment of any fine, premium, or other like sum, or the giving of any pecuniary consideration, in addition to the rent, and, where any such payment or consideration has been made or given in respect of any such dwelling-house under an agreement made after the twenty-fifth day of March nineteen hundred and twenty, the amount or value thereof shall be recoverable by the person by whom it was made or given:

Provided that, where any agreement has been made since the said date but before the passing of this Act for the tenancy of a house to which this Act applies, but the enactments

repealed by this Act did not apply, and the agreement includes provision for the payment of any fine, premium, or other like sum, or the giving of any pecuniary consideration in addition to the rent, that agreement shall, without prejudice to the operation of this section, be voidable at the option of either party thereto.

(2) A person requiring any payment or the giving of any consideration in contravention of this section shall be liable on summary conviction to a fine not exceeding one hundred pounds, and the court by which he is convicted may order the amount paid or the value of the consideration to be repaid to the person by whom the same was made or given, but such order shall be in lieu of any other method of recovery prescribed by this Act.

(3) This section shall not apply to the grant, renewal or continuance for a term of fourteen years or upwards of any tenancy.

Cf. 1915 Act, § 1 (2); Courts (Emergency Powers) (No. 2) Act, 1916, § 2 (1); and Courts (Emergency Powers) Act, 1917, § 4.

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For other criminal responsibility of landlords, v. §§ 3 (2), 10, 11, and 14 (2).

For criminal responsibility of tenants, v. § 15 (2).

Rees v. *Marquis of Bute* and *Davies* v. *The Same* [1916] 2 Ch. 64 were decided under the 1915 Act. It was held in those cases that, notwithstanding that the term to be granted was ninety-nine years, the leases would create tenancies within the Act, and premiums paid for the granting of such leases were prohibited from being retained by the landlord.

By the C. (E. P.) Act, 1917, § 4 (1), the 1915 Act, § 1 (2) was declared not to apply to a lease of a dwelling-house for a term of twenty-one years or upwards.

Both these sections are repealed by the present Act, and, by § 8 (3), § 8 "shall not apply to the grant, renewal or continuance for a term of fourteen years or upwards of any tenancy."

The case above quoted further decided that, the agreement to pay the premiums being illegal, and no possession having been taken under the contracts, the defendant was entitled to be relieved altogether from the contracts upon repaying to the plaintiffs all moneys he had received from them.

This part of the case remains as an authority.

Payments made by mistake of law by a tenant of increased rent,

which the landlord could not have recovered by reason of the Act, are not "a fine, premium, or other like sum" within the section—*Sharp Brothers & Knight* v. *Chant* [1917] 1 K. B. 771. The force of this case is, however, taken away by the express provisions of § 14 (1) q.v.

E. *Limitations on Rent of Houses Let Furnished.*

9.—(1) Where any person lets, or has, before the passing of this Act, let any dwelling-house to which this Act applies, or any part thereof, at a rent which includes payment in respect of the use of furniture, and it is proved to the satisfaction of the county court on the application of the lessee that the rent charged is yielding or will yield to the lessor a profit more than twenty-five per cent. in excess of the normal profit as hereinafter defined, the court may order that the rent, so far as it exceeds such sum as would yield such normal profit and twenty-five per cent. shall be irrecoverable, and that the amount of any payment of rent in excess of such sum which may have been made in respect of any period after the passing of this Act, shall be repaid to the lessee.

(2) For the purpose of this section, "normal profit" means the profit which might reasonably have been expected from a similar letting in the year ending on the third day of August nineteen hundred and fourteen.

Cf. 1919 Act, § 6.

For definition of "let," v. § 12 (1) (*g*).

"Before the passing of this Act," *i.e.*, July 2, 1920.

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For form of summons under this section, v. Appendix V. Form 9; and for form of order, v. Form 10.

This section does not apply to business premises, v. § 13 (1) (*e*).

Note that the excess mentioned in this section, if paid in error or ignorance by the lessee, may be ordered by the County Court to be repaid to him. Such an express statutory provision is rendered necessary by the decision in *Sharp Brothers & Knight* v. *Chant* [1917] 1 K. B. 771.

Note the distinction between "normal profit" and "standard rent" [v. § 12 (1) (*a*)]. "Normal profit" is "the profit which might reasonably have been expected from a similar letting in the year ending," and "standard rent" is "the rent at which the dwelling-house was let" on August 3, 1914.

F. *Penalty for Excessive Charges for Furnished Lettings.*

10. Where any person after the passing of this Act lets any dwelling-house to which this Act applies or any part thereof at a rent which includes payment in respect of the use of furniture, and the rent charged yields to the lessor a profit which, having regard to all the circumstances of the case, and in particular to the margin of profit allowed under the last preceding section of this Act, is extortionate, then, without prejudice to any other remedy under this Act, the lessor shall be liable on summary conviction to a fine not exceeding one hundred pounds, and the court by which he is convicted may order that the rent so far as it exceeds the amount permitted by the last preceding section of this Act shall be irrecoverable and that the amount of any such excess shall be repaid to the lessee, but any such order shall be in lieu of any other method of recovery prescribed by this Act.

This section is new.
For definition of "let," v. § 12 (1) (*g*).
"Passing of this Act," *i.e.*, July 2, 1920.
For dwelling-houses to which this Act applies, v. § 12 (2) and (9).
This section does not apply to business premises, v. § 13 (1) (*e*).
For other methods of recovery, v. § 14.
For other criminal responsibility of landlords, v. §§ 3 (2), 8 (2), 11, and 14 (2).
For criminal responsibility of tenants, v. § 15 (2).

G. *Statement to be Supplied as to Standard Rent.*

11. A landlord of any dwelling-house to which this Act applies shall, on being so requested in writing by the tenant of the dwelling-house, supply him with a statement in writing as to what is the standard rent of the dwelling-house, and if, without reasonable excuse, he fails within fourteen days to do so, or supplies a statement which is false in any material

particular, he shall be liable on summary conviction to a fine not exceeding ten pounds.

Cf. 1919 Act, § 5 (1).

For definition of "landlord" and "tenant," v. § 12 (1) (*f*) and (*g*); "standard rent," v. § 12 (1) (*a*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For other criminal responsibility of landlords, v. §§ 3 (2), 8 (2), 10, and 14 (2).

For criminal responsibility of tenants, v. § 15 (2).

CHAPTER IV.

APPLICATION AND INTERPRETATION OF ACT.

A. *Dwelling Houses.*

12.—(1) For the purposes of this Act, except where the context otherwise requires:—

(*a*) The expression "standard rent" means the rent at which the dwelling-house was let on the third day of August nineteen hundred and fourteen, or, where the dwelling-house was not let on that date, the rent at which it was last let before that date, or, in the case of a dwelling-house which was first let after the said third day of August, the rent at which it was first let:

Provided that, in the case of any dwelling-house let at a progressive rent payable under a tenancy agreement or lease, the maximum rent payable under such tenancy agreement or lease shall be the standard rent; and, where at the date by reference to which the standard rent is calculated, the rent was less than the rateable value the rateable value at that date shall be the standard rent;

(*b*) The expression "standard rate of interest" means, in the case of a mortgage in force on the third day of August nineteen hundred and fourteen, the rate of interest payable at that date, or, in the case of a mortgage created since that date, the original rate of interest;

(*c*) The expression "net rent" means, where the landlord at the time by reference to which the standard rent is calculated paid the rates chargeable on, or which but for the provisions of any Act would be chargeable on

the occupier, the standard rent less the amount of such rates, and in any other case the standard rent;

(*d*) The expression "rates" includes water rents and charges, and any increase in rates payable by a landlord shall be deemed to be payable by him until the rate is next demanded;

(*e*) The expression "rateable value" means the rateable value on the third day of August nineteen hundred and fourteen, or, in the case of a dwelling-house or a part of dwelling-house first assessed after that date, the rateable value at which it was first assessed;

(*f*) The expressions "landlord," "tenant," "mortgagee," and "mortgagor" include any person from time to time deriving title under the original landlord, tenant, mortgagee, or mortgagor;

(*g*) The expression "landlord" also includes in relation to any dwelling-house any person, other than the tenant, who is or would but for this Act be entitled to possession of the dwelling-house, and the expressions "tenant and tenancy" include sub-tenant and sub-tenancy, and the expression "let" includes sub-let; and the expression "tenant" includes the widow of a tenant dying intestate who was residing with him at the time of his death, or, where a tenant dying intestate leaves no widow or is a woman, such member of the tenant's family so residing as aforesaid as may be decided in default of agreement by the county court;

(*h*) The expression "mortgage" includes a land charge under the Land Transfer Acts, 1875 and 1897;

(*i*) The expressions "statutory undertaking" and "statutory duties or powers" include any undertaking, duties or powers, established, imposed or exercised under any order having the force of an Act of Parliament.

Cf. 1915 Act, § 2 (1); 1919 Act, § 7.

For method of apportionment of standard rent or rateable value, v. § 12 (3).

§ 12 (1) (*d*) does not apply to Scotland, v. § 18 (1) (*c*).

The meaning of the words "standard rent" has further been elucidated in the case of *The Westminster and General Properties and*

Investment Co., Ltd., and Another v. Simmons [1919] W. N. 241. The defendant was a tenant of the plaintiffs' flat at the rent of £80 per annum in 1914, since raised to £85. They paid the rates, which for the current year amounted to £18. Bray, J., held that, for the purpose of determining the standard rent, the rates could not be deducted. "The lease," he said, "set out the rent at £80 a year. That is *prima facie* the rent. The fact that the lessor undertakes the burden of paying the rates does not give any right to the tenant to a deduction from the rent in order to ascertain the standard rent." *Cf.* also *Lawrie* v. *Woods* [1920] 2 I. R. 106, and *Isaacs* v. *Titlebaum* [1920] W. N. 29.

The words in § 12 (1) (*f*) were considered in the case of *Martin* v. *Watson & Egan* [1919] 2 I. R. 332. The facts of that case will be found on p. 28, *supra*, and it was there held that B was a person deriving title under the mortgagor within the meaning of this section.

Where an agreement to pay an increased rent is made before, but the first rent under such agreement is payable after, the Act comes into operation, the rent has been "increased *since*" the Act within the meaning of § 1—*Goldsmith* v. *Orr* [1920] W. N. 81 & 250—and it cannot be argued that the house in such a case was let at a "progressive rent" within § 12 (1) (*a*), and that the maximum rent was therefore the standard rent, for a progressive rent under a tenancy agreement is a rent which is periodically increased—*ibid.*, *per* Bailhache, J., at p. 82.

(2) This Act shall apply to a house or a part of a house let as a separate dwelling, where either the annual amount of the standard rent or the rateable value does not exceed—

(*a*) in the metropolitan police district, including therein the City of London, one hundred and five pounds;

(*b*) in Scotland, ninety pounds; and

(*c*) elsewhere, seventy-eight pounds;

and every such house or part of a house shall be deemed to be a dwelling-house to which this Act applies:

Provided that—

(i) this Act shall not, save as otherwise expressly provided, apply to a dwelling-house bona fide let at a rent which includes payments in respect of board, attendance, or use of furniture; and

(ii) the application of this Act to any house or part of a house shall not be excluded by reason only that part

of the premises is used as a shop or office or for business, trade, or professional purposes; and

(iii) for the purposes of this Act, any land or premises let together with a house shall, if the rateable value of the land or premises let separately would be less than one quarter of the rateable value of the house, be treated as part of the house, but, subject to this provision, this Act shall not apply to a house let together with land other than the site of the house.

Cf. 1915 Act, § 2 (2); 1919 Act, § 4; 1919 (No. 2) Act, § 1 (5).

For definition of "standard rent," v. § 12 (1) (*a*); "rateable value," v. § 12 (1) (*e*); "let," v. § 12 (1) (*g*).

For limitation as to new houses, v. § 12 (9).

The metropolitan police district is the area in which the metropolitan police force has jurisdiction. The area includes:—

(1) Westminster and such of the parishes, townships, precincts, and places in the counties of Middlesex, Surrey, and Kent as are specified in the Schedule to the Metropolitan Police Act, 1829 (10 Geo. IV. c. 44).

(2) Such parishes or places within twelve miles of Charing Cross as are included in it by Order in Council under that Act (*ibid.*, § 34), extended to fifteen miles by the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), § 2.

(3) Such part of the Central Criminal Court district (Central Criminal Court Act, 1834 (4 & 5 Will. IV. c. 36), §§ 2 and 3) as is included in it by Order in Council (Metropolitan Police Act, 1839, § 2).

(4) Every part of the River Thames within and adjoining the counties of Middlesex, Surrey, Berkshire, Essex, and Kent (*ibid.*, § 5).

It will be remembered that by the 1915 Act houses of which the annual standard rent or the rateable value did not exceed £35, if situated in the metropolitan police district were dealt with. By the 1919 Act £70 was substituted for £35. In the case of *Dobson* v. *Richards* [1919] W. N. 166, notice to quit was given to a tenant of a house to which the 1915 Act did not, but the 1919 Act did, apply, and it expired before the 1919 Act came into operation. The writ for possession was not, however, issued until the 1919 Act had come into operation. The Court held (1) the tenant was a tenant at sufferance at the date of the writ; (2) that the date of the writ was the material date to be considered; (3) that at that date the defendant was a person to whom the house was "let" within the meaning of the section and was entitled to protection.

The present Act substitutes £105 for £70 and by parity of reasoning recovery of possession of a house to which this Act does, but the former

Acts do not, apply, cannot be obtained save subject to this Act, unless the writ was issued before the passing of the present Act.

Where there is one letting at one rent of different suites of rooms in one house, there are no materials for saying what rent is payable in respect of each suite, and if the total rent reserved exceeds the amount provided by the Act, the tenant cannot claim to apportion the rent between the two suites and so obtain protection—*Rider* v. *Rollitt* [1920] W. N. 227.

For the purposes of this Act, the valuation of a building, used for public purposes, is the figure set out in the rate-book for the assessment of a private occupier of that building. *Cf. Allen* v. *Inspector General R.I.C.* [1920] Ir. L. T. 119.

(3) Where, for the purpose of determining the standard rent or rateable value of any dwelling-house to which this Act applies, it is necessary to apportion the rent at the date in relation to which the standard rent is to be fixed, or the rateable value of the property in which that dwelling-house is comprised, the county court may, on application by either party, make such apportionment as seems just, and the decision of the court as to the amount to be apportioned to the dwelling-house shall be final and conclusive.

Cf. 1915 Act, § 2 (3).

For definition of "standard rent," v. § 12 (1) (*a*); "rateable value," v. § 12 (1) (*e*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For form of summons under this section, v. Appendix V. Form 3.

For form of certificate, v. Appendix V. Form 6.

A case where apportionment was considered necessary was *Woodward* v. *Samuels* [1920] W. N. 82. S. was the tenant of a house at the rent of £45, the rates and taxes being £30 per annum. In 1919 he bought the house, and converted it into three flats at the cost of £35. He then let them separately at the total rent of £150 odd. The tenant of one floor claimed that the rent was in excess of the standard rent, and asked the County Court Judge to apportion. The County Court Judge held that, as the applicant's flat was first let as a separate dwelling-house at the rent he was now paying, that was the standard rent. The Divisional Court reversed this decision, and held that this was just the case to which § 2 (3) [now § 12 (3)] applied. "If the house," they said, "had been pulled down and rebuilt since August, 1914, the standard rent would be the rent at which the new building was first let, but it is otherwise with the conversion of an existing building into flats." The Court, however, pointed out in the course

of the argument that their decision would have this unfortunate result, that no landlord would be found ready to convert houses into flats if he could not increase his total rent by more than the 6% allowed on the cost of conversion.

This difficulty has now been removed by § 12 (9), q.v. *infra.*

(4) Subject to the provisions of this Act, this Act shall apply to every mortgage where the mortgaged property consists of or comprises one or more dwelling-houses to which this Act applies, or any interest therein, except that it shall not apply—

(*a*) to any mortgage comprising one or more dwelling-houses to which this Act applies and other land if the rateable value of such dwelling-houses is less than one-tenth of the rateable value of the whole of the land comprised in the mortgage; or

(*b*) to an equitable charge by deposit of title deeds or otherwise; or

(*c*) to any mortgage which is created after the passing of this Act.

Cf. 1915 Act, § 2 (4.).

For definition of "mortgage," v. § 12 (1) (*h*); "rateable value," v. § 12 (1) (*e*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

Cf. London County and Westminster Bank v. *Tompkins* [1918] 1 K. B. 515, and *Jones* v. *Woodward* [1917] W. N. 61, cited at p. 29, *supra.*

(5) When a mortgage comprises one or more dwelling-houses to which this Act applies and other land, and the rateable value of such dwelling-houses is more than one-tenth of the rateable value of the whole of the land comprised in the mortgage, the mortgagee may apportion the principal money secured by the mortgage between such dwelling-houses and such other land by giving one calendar month's notice in writing to the mortgagor, such notice to state the particulars of such apportionment, and at the expiration of the said calendar month's notice this Act shall not apply to the mortgage so far as it relates to such other land, and for all

purposes, including the mortgagor's right of redemption, the said mortgage shall operate as if it were a separate mortgage for the respective portions of the said principal money secured by the said dwelling-houses and such other land, respectively, to which such portions were apportioned:

Provided that the mortgagor shall, before the expiration of the said calendar month's notice, be entitled to dispute the amounts so apportioned as aforesaid, and in default of agreement the matter shall be determined by a single arbitrator appointed by the President of the Surveyors' Institution.

This sub-section is new.

For definition of "mortgage," v. § 12 (1) (*h*); "rateable value," v. § 12 (1) (*e*); "mortgagee," v. § 12 (1) (*f*); "mortgagor," v. 12 (1) (*f*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

(6) Where this Act has become applicable to any dwelling-house or any mortgage thereon it shall continue to apply thereto whether or not the dwelling-house continues to be one to which this Act applies.

Cf. 1915 Act, § 2 (5).

For definition of "mortgage," v. § 12 (1) (*h*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

(7) Where the rent payable in respect of any tenancy of any dwelling-house is less than two-thirds of the rateable value thereof, this Act shall not apply to that rent or tenancy nor to any mortgage by the landlord from whom the tenancy is held of his interest in the dwelling-house, and this Act shall apply in respect of such dwelling-house as if no such tenancy existed or ever had existed.

Cf. 1915 Act, § 2 (6), and Courts (Emergency Powers) Act, 1917, § 7.

For definition of "tenancy," v. § 12 (1) (*g*); "rateable value" v. § 12 (1) (*e*); "mortgage," v. § 12 (1) (*h*); "landlord," v. § 12 (1) (*f*) and (*g*).

Suppose a house to be rated at £100 a year to be situate in London and let at £60 a year. In estimating the standard rent, this tenancy

may be wholly ignored even though it subsisted on August 3, 1914. In such a case it would be necessary to inquire (1) at what rent it was last let before that date; or (2) if it was first let (apart from this £60 a year tenancy) after August 3, 1914, at what rent it was first let.

(8) Any rooms in a dwelling-house subject to a separate letting wholly or partly as a dwelling shall, for the purposes of this Act, be treated as a part of a dwelling-house let as a separate dwelling.

Cf. 1919 Act, § 5 (4).
For definition of "let," v. § 12 (1) (*g*).

(9) This Act shall not apply to a dwelling-house erected after or in course of erection on the second day of April nineteen hundred and nineteen, or to any dwelling-house which has been since that date or was at that date being bona fide reconstructed by way of conversion into two or more separate and self-contained flats or tenements; but for the purpose of any enactment relating to rating, the gross estimated rental or gross value of any such house to which this Act would have applied if it had been erected or so reconstructed before the third day of August nineteen hundred and fourteen, and let at that date, shall not exceed—

(*a*) if the house forms part of a housing scheme to which section seven of the Housing, Town Planning, &c. Act, 1919, applies, the rent (exclusive of rates) charged by the local authority in respect of that house; and

(*b*) in any other case the rent (exclusive of rates) which would have been charged by the local authority in respect of a similar house forming part of such a scheme as aforesaid.

Cf. 1919 Act, § 8.
For definition of "let," v. § 12 (1) (*g*).
For dwelling-houses to which this Act would have applied, v. § 12 (2) and (9).
As to amendment of this sub-section in the application of the Act to Ireland, v. § 18 (2) (*f*).
The Housing, Town Planning, &c. Act, 1919 (9 & 10 Geo. V. c. 35), § 7, gives power to the Local Government Board to assist financially local authorities who have suffered loss in carrying out housing schemes.

(10) Where possession has been taken of any dwelling-houses by a Government department during the war, under the Defence of the Realm regulations, for the purpose of housing workmen, this Act shall apply to such houses as if the workmen in occupation thereof at the passing of this Act were in occupation as tenants of the landlords of such houses.

For definition of "tenant" and "landlord," v. § 12 (1) (*f*) and (*g*).

B. *Business Premises.*

13.—(1) This Act shall apply to any premises used for business trade or professional purposes or for the public service as it applies to a dwelling-house, and as though references to "dwelling-house" "house" and "dwelling" included references to any such premises, but this Act in its application to such premises shall have effect subject to the following modifications:—

(*a*) The following paragraph shall be substituted for paragraph (*c*) of sub-section (1) of section two:

(*c*) In addition to any such amounts as aforesaid, an amount not exceeding thirty-five per centum of the net rent:

(*b*) The following paragraph shall be substituted for paragraph (*d*) of sub-section (1) of section five:

"(*d*) the premises are reasonably required by the landlord for business trade or professional purposes or for the public service, and (except as otherwise provided by this sub-section) the court is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects, is available";

(*c*) The following paragraph shall be added after paragraph (*g*) of the same sub-section:

(*h*) The premises are bona fide required for the purpose of a scheme of reconstruction or improvement which appears to the court to be desirable in the public interest.

(*d*) Paragraph (i) of the same sub-section shall not apply;

(*e*) Sections nine and ten shall not apply.

(2) The application of this Act to such premises as aforesaid shall not extend to a letting or tenancy in any market or fair where the rent or conditions of tenancy are controlled or regulated by or in pursuance of any statute or charter.

(3) This section shall continue in force until the twenty-fourth day of June nineteen hundred and twenty-one.

This section is new.

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For definition of "landlord," v. § 12 (1) (*f*) and (*g*); "tenancy," v. § 12 (1) (*g*).

CHAPTER V.

ANCILLARY PROVISIONS (INCLUDING THE APPLICATION OF THE ACT TO SCOTLAND AND IRELAND).

A. *Recovery of Sums made Irrecoverable.*

14.—(1) Where any sum has, whether before or after the passing of this Act, been paid on account of any rent or mortgage interest, being a sum which is by virtue of this Act, or any Act repealed by this Act, irrecoverable by the landlord or mortgagee, the sum so paid shall be recoverable from the landlord or mortgagee who received the payment or his legal personal representative by the tenant or mortgagor by whom it was paid, and any such sum, and any other sum which under this Act is recoverable by a tenant from a landlord or payable or repayable by a landlord to a tenant, may, without prejudice to any other method of recovery, be deducted by the tenant or mortgagor from any rent or interest payable by him to the landlord or mortgagee.

Cf. Courts (Emergency Powers) Act, 1917, § 5 (1).

For definition of "landlord," v. § 12 (1) (*f*) and (*g*); "mortgagee," v. § 12 (1) (*f*); "tenant," v. § 12 (1) (*f*) and (*g*); "mortgagor," v. § 12 (1) (*f*).

This section, which reproduces Courts (Emergency Powers) Act, 1917, § 5, was found necessary because of the decision in *Sharp Brothers and Knight* v. *Chant* [1917] 1 K. B. 771. That case was decided under the 1915 Act, § 1 (1), and it was there held that where a landlord had increased the rent of premises to which the Act applied since August 3, 1914, and the tenant, in ignorance of such Act, had paid such increased rent accruing due after November 25, 1915, but on becoming aware of the Act had deducted from the rent paid by him the amount of the increase as from the last-mentioned date, the landlord is entitled to recover such amount, for though the increased payments are irrecoverable by the landlord if the tenant had not paid them, yet the tenant, having paid them under mistake of law, was not entitled to recover them from the landlord by any means whatever.

This decision of the Court of Appeal reversed the decision of the Divisional Court, and they further held that such payments were not "a fine, premium or other like sum" within the meaning of § 1 (2) (*cf.* § 8 of the new Act), and were not recoverable on that ground. *Cf.* also *Dickson* v. *Weir* [1918] 2 Scots L. T. 237

(2) If—

(*a*) any person in any rent book or similar document makes an entry showing or purporting to show any tenant as being in arrear in respect of any sum which by virtue of any such Act is irrecoverable; or

(*b*) where any such entry has, before the passing of this Act, been made by or on behalf of any landlord, the landlord, on being requested by or on behalf of the tenant so to do, refuses or neglects to cause the entry to be deleted within seven days,

that person or landlord shall, on summary conviction, be liable to a fine not exceeding ten pounds, unless he proves that he acted innocently and without intent to deceive.

Cf. C. (E. P.) Act, 1917, § 5 (2).

For definition of "tenant," v. § 12 (*f*) and (*g*); "landlord," v. § 12 (1) (*f*) and (*g*).

For other criminal responsibility of landlords, v. §§ 3 (2), 8 (2), 10 and 11.

For criminal responsibility of tenants, v. § 15 (2).

B. *Conditions of Statutory Tenancy.*

15.—(1) A tenant who by virtue of the provisions of this Act retains possession of any dwelling-house to which this Act applies shall, so long as he retains possession, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Act, and shall be entitled to give up possession of the dwelling-house only on giving such notice as would have been required under the original contract of tenancy, or, if no notice would have been so required, on giving not less than three months' notice:

Provided that, notwithstanding anything in the contract of tenancy, a landlord who obtains an order or judgment for the recovery of possession of the dwelling-house or for the ejectment of a tenant retaining possession as aforesaid shall not be required to give any notice to quit to the tenant.

(2) Any tenant retaining possession as aforesaid shall not as a condition of giving up possession ask or receive the payment of any sum, or the giving of any other consideration, by any person other than the landlord, and any person acting in contravention of this provision shall be liable on summary conviction to a fine not exceeding one hundred pounds, and the court by which he was convicted may order any such payment or the value of any such consideration to be paid to the person by whom the same was made or given, but any such order shall be in lieu of any other method of recovery prescribed by this Act.

(3) Where the interest of a tenant of a dwelling-house to which this Act applies is determined, either as the result of an order or judgment for possession or ejectment or for any other reason, any sub-tenant to whom the premises or any part thereof have been lawfully sublet shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenancy had continued.

This section is new.

For definition of "tenant," v. § 12 (1) (*f*) and (*g*); "tenancy," v. § 12 (1) (*g*); "landlord," v. § 12 (1) (*f*) and (*g*).

For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

For criminal responsibility of landlords, v. §§ 3 (2), 8 (2), 10, 11 and 14 (2).

Where a tenant holds over, according to the general law on this subject, after his tenancy has determined, it is a question of fact what contract ought to be implied from the conduct of the parties. *Cf., e.g., Finlay* v. *Bristol and Exeter Railway Co.* [1852] 7 Ex. 409, or *Towne* v. *Campbell* [1847] 3 C. B. 921; and in the absence of evidence of a new contract the terms of the former tenancy continue—*Elgar* v. *Watson* [1842] Car. & M. 494.

Where, however, a tenant has held over since the Act, in respect of a house to which the Act applies, the landlord cannot (in the absence of any evidence other than his having allowed the tenant to retain possession) be presumed to have assented to the tenant's holding over, for he

is restrained by the Legislature from recovering possession; and the inference that there was an implied agreement to continue the former tenancy on the former terms might well be questioned.

The Act now provides that the tenant, on the one hand, shall observe and be entitled to the benefit of the terms of the original tenancy, so far as they are consistent with this Act, and if he desires to terminate his tenancy, must give such notice as would have been required under the original contract of tenancy. The landlord, on the other hand, does not prejudice his right to possession by accepting rent for a period not exceeding three months from the expiration of the notice to quit, v. § 16 (3).

C. *Minor Amendments of Law.*

16.—(1) Section three of the Poor Rate Assessment and Collection Act, 1869, shall, except so far as it relates to the metropolis, have effect as though for the limits of value specified in that section there were substituted limits twenty-five per cent. in excess of the limits so specified, and that section and section four of the same Act shall have effect accordingly.

This sub-section is new.

The Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), § 3, enacts that if the owner of "a hereditament is willing to enter into an agreement in writing with the overseers to become liable to them for the poor rates assessed in respect of such hereditament, for any term not less than one year from the date of such agreement, and to pay the poor rates whether the hereditament is occupied or not, the overseers may, subject nevertheless to the control of the vestry, agree with the owner to receive the rates from him, and to allow to him a commission not exceeding 25 per cent. on the amount thereof."

This provision is, however, limited to hereditaments the rateable value of which does not exceed, if situate in the Metropolis, £20; in Liverpool, £13; in Manchester or Birmingham, £10; and elsewhere, £8.

And § 4 provides that the vestry of any parish may from time to time order that the owners of all rateable hereditaments to which § 3 applies, situate within such parish, shall be rated to the poor rate in respect of such rateable hereditaments, instead of the occupiers, on all rates made after the date of such order. And then follow the abatements which may be allowed to the owners.

(2) It shall be deemed to be a condition of the tenancy of any dwelling-house to which this Act applies that the tenant shall afford to the landlord access thereto and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

This sub-section is new.
For definition of "tenancy," v. § 12 (1) (*g*); "landlord," v. § 12 (1) (*f*) and (*g*); "tenant," v. § 12 (1) (*f*) and (*g*).
For dwelling-houses to which this Act applies, v. § 12 (2) and (9).

(3) Where the landlord of any dwelling-house to which this Act applies has served a notice to quit on a tenant, the acceptance of rent by the landlord for a period not exceeding three months from the expiration of the notice to quit shall not be deemed to prejudice any right to possession of such premises, and, if any order for possession is made, any payment of rent so accepted shall be treated as mesne profits.

This sub-section is new.
For definition of "landlord," v. § 12 (1) (*f*) and (*g*); "tenant," v. § 12 (1) (*f*) and (*g*).
For dwelling-houses to which this Act applies, v. § 12 (2) and (9).
See, further, as to the position of landlord and tenant where the tenant retains possession by virtue of the Act, § 15 (1).

D. *Rules as to Procedure.*

17.—(1) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this Act, and may, by those rules or directions, provide for any proceedings for the purposes of this Act being conducted so far as desirable in private and for the remission of any fees.

Cf. 1915 Act, § 3.
In pursuance of his powers under the 1915 Act, § 3, the Lord Chancellor has made three orders.
1. The Increase of Rent and Mortgage Interest (War Restrictions) Rules, 1916, dated January 29, 1916 [S. R. & O. 62, L2, 1916.]
2. The Increase of Rent and Mortgage Interest (War Restrictions) Rules, 1916 (No. 2), dated June 26, 1916 [S. R. & O. 446, L22, 1916.]

3. The Increase of Rent and Mortgage Interest (Restrictions) Rules, 1919, dated May 21, 1919 [S. R. & O. 623, 1919.]

In pursuance of his powers under the 1915 Act, §§ 3 and 4 (2) (*a*), the Lord Chancellor of Ireland has made two orders, one dated March 24, 1916 [S. R. & O. 221, 1916], and a second dated October 17, 1916 [S. R. & O. 747, 1916.]

In pursuance of their powers under the 1919 Act, § 10 (*b*), the Local Government Board for Ireland made an order dated February 3, 1920 [S. R. & O. 209, 1920.]

No orders have yet (July 7, 1920) been made under the present section. The forms at the end of the Rules first above-mentioned will be found reprinted with modifications in Appendix V. of this book.

(2) A county court shall have jurisdiction to deal with any claim or other proceedings arising out of this Act or any of the provisions thereof, notwithstanding that by reason of the amount of claim or otherwise the case would not but for this provision be within the jurisdiction of a county court, and if a person takes proceedings under this Act in the High Court which he could have taken in the county court, he shall not be entitled to recover any costs.

This sub-section is new.

E. *Application to Scotland and Ireland.*

18.—(1) This Act shall apply to Scotland, subject to the following modications:—

(*a*) "Mortgage" and "encumbrance" mean a heritable security including a security constituted by absolute disposition qualified by back bond or letter; "mortgagor" and "mortgagee" mean respectively the debtor and the creditor in a heritable security; "covenant" means obligation; "mortgaged property" means the heritable subject or subjects included in a heritable security; "rateable value" means yearly value according to the valuation roll; "rateable value on the third day of August nineteen hundred and fourteen" means yearly value according to the valuation roll

for the year ending fifteenth day of May nineteen hundred and fifteen; "assessed" means entered in the valuation roll; "land" means lands and heritages; "rates" means assessments as defined in the House Letting and Rating (Scotland) Act, 1911; "Lord Chancellor" and "High Court" mean the Court of Session; "rules" means act of sederunt; "county court" means the sheriff court; "sanitary authority" means the local authority under the Public Health (Scotland) Act, 1897; "mesne profits" means profits; the Board of Agriculture for Scotland shall be substituted for the Minister of Agriculture and Fisheries; the twenty-eighth day of May shall be substituted for the twenty-fourth day of June; the reference to the county agricultural committee shall be construed as a reference to the body of persons constituted with respect to any area by the Board of Agriculture for Scotland under sub-section (2) of section eleven of the Corn Production Act, 1917; references to levying distress shall be construed as references to doing diligence; the reference to the President of the Surveyors' Institution shall be construed as a reference to the Chairman of the Scottish Committee of the Surveyors' Institution; a reference to section five of the Housing, Town Planning, &c. (Scotland) Act, 1919, shall be substituted for a reference to section seven of the Housing, Town Planning, &c. Act, 1919; and a reference to section one of the House Letting and Rating (Scotland) Act, 1911, shall be substituted for a reference to section three of the Poor Rate Assessment and Collection Act, 1869:

(*b*) Nothing in paragraph (*b*) of sub-section (1) of the section of this Act relating to permitted increases in rent shall permit any increase in rent in respect of any increase after the year ending Whitsunday nineteen hundred and twenty in the amount of the rates payable by the landlord other than rates for which he is responsible under the House Letting and Rating (Scotland) Act, 1911:

(*c*) Paragraph (*d*) of sub-section (1) of the section of this Act relating to application and interpretation shall not apply:

(*d*) Where any dwelling-house, to which the Acts repealed by this Act applied, is subject to a right of tenancy arising from a yearly contract or from tacit relocation, and ending at Whitsunday nineteen hundred and twenty-one, the year ending at the said term of Whitsunday shall be deemed to be a period during which, but for this Act, the landlord would be entitled to obtain possession of such dwelling-house.

Cf. 1915 Act, § 4 (1); 1919 Act, § 9; and 1919 (No. 2) Act, § 1 (6).

The expression "assessment" by the House Letting and Rating (Scotland) Act, 1911 (1 & 2 Geo. V. c. 53), § 1, includes "all rates, charges, and assessments imposed, assessed, or levied by an assessing authority, the proceeds of which are applicable to public local purposes and which are leviable in respect of the yearly value of lands and heritages, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of an assessment."

The Housing, Town Planning &c. (Scotland) Act, 1919 (9 & 10 Geo. V. c. 60), § 5, provides for recouping losses on housing schemes.

(2) This Act shall apply to Ireland subject to the following modifications:—

(*a*) A reference to the Lord Chancellor of Ireland shall be substituted for the reference to the Lord Chancellor:

(*b*) A reference to section fifteen of the Summary Jurisdiction (Ireland) Act, 1851, shall be substituted for the reference to section one of the Small Tenements Recovery Act, 1838:

(*c*) The expression "mortgage" includes a charge by registered disposition under the Local Registration of Title (Ireland) Act, 1891, and any notice of the apportionment of the principal money secured by a mortgage, if and when the notice becomes operative under this Act, and the award of any arbitrator with reference to any such apportionment may be registered under the

enactments relative to the registration of deeds or titles as the case requires:

(*d*) The expression "rateable value" means the annual rateable value under the Irish Valuation Acts: Provided that, where part of a house let as a separate dwelling is not separately valued under those Acts, the Commissioner of Valuation and Boundary Surveyor may, on the application of the landlord or tenant, make such apportionment of the rateable value of the whole house as seems just, and his decision as to the amount to be apportioned to the part of the house shall be final and conclusive, and that amount shall be taken to be the rateable value of the part of the house for the purposes of this Act but not further or otherwise:

(*e*) The following paragraph shall be substituted for paragraph (ii) of sub-section (1) of section five of this Act:

(ii) Where the court is satisfied that the dwelling-house is required by the landlord for the occupation of a person engaged on work necessary for the proper working of an agricultural holding:

(*f*) The following sub-section shall be substituted for sub-section (9) of section twelve of this Act:

(9) This Act shall not apply to a dwelling-house erected after, or in course of erection on, the second day of April nineteen hundred and nineteen, or to any dwelling-house which has been since that date or was at that date being bona fide reconstructed by way of conversion into two or more separate and self-contained flats or tenements; but the rateable value of any such dwelling-house to which this Act would have applied if it had been erected or so reconstructed before the said date shall be ascertained as though the rent for the purposes of section eleven of the Valuation (Ireland) Act, 1852, were the rent for which a similar dwelling-house might have been reasonably expected to let on the third day of August nineteen hundred and fourteen, the probable average annual cost of repairs, insurance, and other expenses (if any) necessary to maintain the dwelling-house in

its actual state, and all rates, taxes, and public charges, if any (except tithe rentcharge), being paid by the tenant:

(*g*) The medical officer of health of a dispensary district shall be substituted for the sanitary authority in section two of this Act and in the First Schedule thereto, and the issue of certificates and the payment of fees in connection with applications by tenants under the said section shall be subject to regulations to be made by the Local Government Board for Ireland:

(*h*) This Act shall not apply to any dwelling-house provided by a local authority under the Labourers (Ireland) Acts, 1883 to 1919, or under any of those Acts.

Cf. 1915 Act, § 4 (2); 1919 Act, § 10.

The Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70), § 75, enacts: "In any contract made after" August 14, 1885, "for letting for habitation by persons of the working classes a house or part of a house, there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation." And "letting for habitation by persons of the working classes" means "the letting for habitation of a house or part of a house at a rent not exceeding . . . in Ireland £4."

The Summary Jurisdiction (Ireland) Act, 1851 (14 & 15 Vict. c. 92), § 15, makes provision for possession of small tenements being recovered by order of justices, and prescribes the manner of service of the summons, and the nature of the order that may be made.

F. *Short Title, Duration and Repeal.*

19.—(1) This Act may be cited as the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

(2) Except as otherwise provided, this Act shall continue in force until the twenty-fourth day of June nineteen hundred and twenty-three:

Provided that the expiration of this Act or any part thereof shall not render recoverable by a landlord any rent, interest or other sum which during the continuance thereof was irrecoverable, or affect the right of a tenant to recover any sum which during the continuance thereof was under this Act recoverable by him.

(3) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule:

Provided that, without prejudice to the operation of section thirty-eight of the Interpretation Act, 1889, nothing in this repeal shall render recoverable any sums which at the time of the passing of this Act were irrecoverable, or affect the validity of any order of a court, or any rules or directions made or given under any enactment repealed by this Act, all of which orders, rules, and directions if in force at the date of the passing of this Act shall have effect as if they were made or given under this Act, and any proceedings pending in any court at the date of the passing of this Act, under any enactment repealed by this Act, shall be deemed to have been commenced under this Act.

Cf. 1915 Act, § 5 (2).

"Except as otherwise provided," *i.e.*, the application of the Act to business premises, in which case it expires on June 24, 1921, v. § 13 (3).

The Interpretation Act, 1889 (52 & 53 Vict. c. 63), § 38, enacts:—

"(1) Where this Act or any Act passed after" January 1, 1890, "repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed, shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

"(2) Where this Act or any Act passed after" January 1, 1890, "repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

"(*a*) revive anything not in force or existing at the time at which the repeal takes effect; or

"(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or

"(*c*) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or

"(*d*) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or

"(*e*) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

"and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing Act had not been passed."

SCHEDULES.

FIRST SCHEDULE.

FORM OF NOTICE BY LANDLORD.

INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920.

Date

To

Address of premises to which this notice refers - - }

Take notice that I intend to increase the rent of *l.* *s.* *d.* per at present payable by you as tenant of the above-named premises by the amount of *l.* *s.* *d.* per

The increase is made up as follows:—

(*a*) *l.* *s.* *d.* under paragraph (*a*) of sub-section (1) of section two of the Act, being six [eight] per cent. on *l.* *s.* *d.* expended by me since [*insert date*] on improvements and structural alterations, and consisting of*

(*b*) *l.* *s.* *d.* under paragraph (*b*) of sub-section (1) of section two of the Act, on account of an increase in the rates payable by me from *l.* *s.* *d.* per to *l.* *s.* *d.* per in respect of the premises.

(*c*) *l.* *s.* *d.* under paragraph (*c*) of sub-section (1) of section two of the Act, being per cent. on the net rent of the premises. The net rent is *l.* *s.* *d.* The standard rent is *l.* *s.* *d.*

(*d*) *l.* *s.* *d.* under paragraph (*d*) of sub-section (1) of section two of the Act, being per cent. on the net rent of the premises. The net rent is *l.* *s.* *d.* The standard rent is *l.* *s.* *d.*

The increase under head (*b*) will date from , being one clear week from the date of this notice, and the remaining increases from , being four clear weeks from the date of this notice.

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* Here state improvements and alterations effected.

† The increase under head (*d*) is on account of my responsibility for repairs, for no part [part only] of which are you under an express liability.

‡ At any time or times, not being less than three months after the day of , 19 , you are entitled to apply to the county court for an order suspending the increases under heads (*c*) and (*d*) above if you consider that the premises are not in all respects reasonably fit for human habitation or otherwise not in a reasonable state of repair. You will be required to satisfy the county court, by a report of the sanitary authority or otherwise, that your application is well founded, and for this purpose you are entitled to apply to the sanitary authority for a certificate. A fee of one shilling is chargeable on any application for a certificate, but, if the certificate is granted you can deduct this sum from your rent. The address of the sanitary authority is

Signed

Address

SECOND SCHEDULE.

Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
5 & 6 Geo. 5. c. 97.	The Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915.	The whole Act.
7 & 8 Geo. 5. c. 25.	The Courts (Emergency Powers) Act, 1917.	Ss. 4, 5 and 7.
8 & 9 Geo. 5. c. 7.	The Increase of Rent and Mortgage Interest (Restrictions) Act, 1919.	The whole Act.
9 & 10 Geo. 5. c. 90.	The Increase of Rent, &c. (Amendment) Act, 1919.	The whole Act.

† Where the tenant is under an express liability for part of the repairs, the increase under head (*d*) is to be settled in default of agreement by the county court.

‡ This paragraph need not be included if there is no increase under head (*d*).

APPENDIX I.

Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915.

(5 & 6 Geo. 5, Ch. 97).

1.—(1) Where the rent of a dwelling-house to which this Act applies, or the rate of interest on a mortgage to which this Act applies, has been, since the commencement of the present war, or is hereafter during the continuance of this Act, increased above the standard rent or the standard rate of interest as herein-after defined, the amount by which the rent or interest payable exceeds the amount which would have been payable had the increase not been made shall, notwithstanding any agreement to the contrary, be irrecoverable :

Provided that—

(i) This sub-section shall not apply to any rent or mortgage interest which accrued due before the twenty-fifth day of November nineteen hundred and fifteen; and

(ii) Where the landlord has since the commencement of the present war incurred, or during the continuance of this Act incurs, expenditure on the improvement or structural alteration of a dwelling-house (not including expenditure on decoration or repairs), an increase of rent at a rate not exceeding six per cent. per annum on the amount so expended shall not be deemed to be an increase for the purposes of this Act; and

(iii) Any transfer to a tenant of any burden or liability previously borne by the landlord shall for the purposes of this Act be treated as an alteration of rent, and where, as the result of such a transfer, the terms on which a dwelling-house is held are on the whole less favourable to the tenant than the previous terms the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased, and any increase of rent in respect of any transfer to a landlord of any burden or liability previously borne by the tenant where, as the result of such transfer, the terms on which a dwelling-house is held are on the whole more favourable to the tenant than the previous terms shall be deemed not to be an increase of rent for the purposes of this Act, and if any question arises under this proviso the question shall be determined by the county court, whose decision shall be final and conclusive; and

(iv) Where the landlord pays the rates chargeable on, or which but for the enactments relating to compounding would be chargeable on, the occupier of any dwelling-house, an increase of the rent of the dwelling-house shall not be deemed to be an increase for the purposes of this

Act if the amount of the increase does not exceed any increase in the amount for the time being payable by the landlord in respect of such rates over the corresponding amount paid in respect of the yearly, half yearly or other period which included the third day of August nineteen hundred and fourteen, and for the purposes of this proviso the expression "rates" includes water rents and charges; and

(v) Where the rate of mortgage interest has been increased in compliance with, or in consequence of, a notice in writing demanding either repayment of the mortgage or an increased rate of interest given prior to the fourth day of August nineteen hundred and fourteen, such increase shall not be deemed to be an increase for the purposes of this Act; and

(vi) Wherever an increase of rent is by this Act permitted, no such increase shall be due or recoverable until the expiry of four clear weeks after the landlord has served upon the tenant a notice in writing of his intention to increase the rent, accompanied—

(*a*) where the increase of rent is on account of such expenditure as is mentioned in proviso (ii) to this sub-section, by a statement of the improvements or alterations effected and of their cost; and

(*b*) where the increase of rent is on account of an increase in rates, by a statement showing particulars of the increased amount charged in respect of rates on the dwelling-house; and

(*c*) where such a notice has been served on any tenant the increase may be continued without service of any fresh notice on any subsequent tenant.

(2) A person shall not in consideration of the grant, renewal, or continuance of a tenancy of any dwelling-house to which this Act applies require the payment of any fine, premium, or other like sum in addition to the rent, and where any such payment has been made in respect of any such dwelling-house after the twenty-fifth day of November nineteen hundred and fifteen, then the amount shall be recoverable by the tenant by whom it was made from the landlord, and may without prejudice to any other method of recovery be deducted from any rent payable by him to the landlord, but this provision shall not apply to any payment under an agreement entered into before the fourth day of August nineteen hundred and fourteen.

(3) No order for the recovery of possession of a dwelling-house to which this Act applies or for the ejectment of a tenant therefrom shall be made so long as the tenant continues to pay rent at the agreed rate as modified by this Act and performs the other conditions of the tenancy, except on the ground that the tenant has committed waste or has been guilty of conduct which is a nuisance or an annoyance to adjoining or neighbouring occupiers, or that the premises are reasonably required by the landlord for the occupation of himself or some other person in his employ, or in the employ of some tenant from him, or on some other ground which may be deemed satisfactory by the court making such order, and where such order has been made but not executed before the passing of this Act the court by which the order was made may, if it is of opinion that the order would not have been made if this Act had been in operation at the date of the making of the order, rescind or vary the order in such manner as the court may think fit for the purpose of giving effect to this Act.

(4) It shall not be lawful for any mortgagee under a mortgage to which this Act applies, during the continuance of this Act, and so long as interest at the standard rate is paid and is not more than twenty-one days in arrear, and the

covenants by the mortgagor (other than the covenant for the repayment of the principal money secured) are performed and observed, and so long as the mortgagor keeps the property in a proper state of repair and pays all interest and instalments of principal recoverable under any prior encumbrance, to call in his mortgage or to take any steps for exercising any right of foreclosure or sale, or for otherwise enforcing his security or for recovering the principal money thereby secured :

Provided that this provision shall not apply to a mortgage where the principal money secured thereby is repayable by means of periodical instalments extending over a term of not less than ten years from the creation of the mortgage, nor shall this provision affect any power of sale exerciseable by a mortgagee who was at the twenty-fifth day of November nineteen hundred and fifteen a mortgagee in possession, or in cases where the mortgagor consents to the exercise by the mortgagee of the powers conferred by the mortgage :

Provided also that if, in the case of a mortgage of a leasehold interest, the mortgagee satisfies the county court that his security is seriously diminishing in value or is otherwise in jeopardy, and that for that reason it is reasonable that the mortgage should be called in and enforced, the court may by order authorise him to call in and enforce the same, and thereupon this sub-section shall not apply to such mortgage.

2.—(1) For the purposes of this Act except where the context otherwise requires :—

(*a*) The expression " standard rent " means the rent at which the dwelling house was let on the third day of August nineteen hundred and fourteen, or, where the dwelling-house was not let on that date, the rent at which it was last let before that date, or, in the case of a dwelling-house which was first let after the said third day of August, the rent at which it was first let :

(*b*) The expression " standard rate of interest " means in the case of a mortgage in force on the third day of August nineteen hundred and fourteen, the rate of interest payable at that date, or, in the case of a mortgage created since that date, the original rate of interest :

(*c*) The expression " rateable value " means the rateable value on the third day of August nineteen hundred and fourteen, or, in the case of a house or part of a house first assessed after that date, the rateable value at which it was first assessed :

(*d*) The expressions " landlord," " tenant," " mortgagee," and " mortgagor " include any person from time to time deriving title under the original landlord, tenant, mortgagee, or mortgagor :

(*e*) The expression " mortgage " includes a land charge under the Land Transfer Acts, 1875 and 1897.

(2) This Act shall apply to a house or a part of a house let as a separate dwelling where such letting does not include any land other than the site of the dwelling-house and a garden or other premises within the curtilage of the dwelling-house, and where either the annual amount of the standard rent or the rateable value of the house or part of the house does not exceed—

(*a*) in the case of a house situate in the metropolitan police district, including therein the city of London, thirty-five pounds ;

(*b*) in the case of a house situate in Scotland, thirty pounds ; and

(*c*) in the case of a house situate elsewhere, twenty-six pounds ;

and every such house or part of a house shall be deemed to be a dwelling-house to which this Act applies : Provided that this Act shall not apply to a

dwelling-house let at a rent which includes payments in respect of board, attendance, or use of furniture.

(3) Where, for the purpose of determining the standard rent or rateable value of a dwelling-house to which this Act applies, it is necessary to apportion the rent at the date in relation to which the standard rent is to be fixed or the rateable value of the property in which that dwelling-house is comprised, a county court may, on application by either party, make such apportionment as seems just, and the decision of the court as to the amount to be apportioned to the dwelling-house shall be final and conclusive.

(4) Subject to the provisions of this Act, this Act shall apply to every mortgage where the mortgaged property consists of or comprises one or more dwelling-houses to which this Act applies, or any interest therein except that it shall not apply—

(*a*) to any mortgage comprising one or more dwelling-houses to which this Act applies and other land if the rateable value of such dwelling-houses is less than one-tenth of the rateable value of the whole of the land comprised in the mortgage, or

(*b*) to an equitable charge by deposit of title deeds or otherwise.

(5) Where this Act has become applicable to any dwelling-house or any mortgage thereon it shall continue to apply thereto whether or not the dwelling-house continues to be a dwelling-house to which this Act applies.

(6) Where the standard rent payable in respect of any tenancy of a dwelling-house is less than two-thirds of the rateable value thereof, this Act shall not apply to that rent or tenancy nor to any mortgage by the landlord from whom the tenancy is held of his interest in the dwelling-house.

3. The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this Act, and may by those rules or directions provide for any proceedings for the purposes of this Act being conducted so far as desirable in private and for the remission of any fees.

4.—(1) This Act shall apply to Scotland, subject to the following modifications :—

"Mortgage and incumbrance" mean a heritable security; "fine" means grassum or consideration other than rent; "mortgagor" and "mortgagee" mean respectively the debtor and the creditor in a heritable security; "covenant" means obligation; "mortgaged property" means the heritable subject or subjects included in a heritable security; "rateable value" means yearly value according to the valuation roll; "rateable value on the third day of August nineteen hundred and fourteen" means yearly value acocrding to the valuation roll for the year ending fifteenth day of May nineteen hundred and fifteen; "assessed" means entered in the valuation roll; "committed waste" means "wilfully destroyed the property"; "land" means lands and heritages; "enactments relating to compounding" include the House-letting and Rating (Scotland) Act, 1911; "rate" means assessment as defined in the last-mentioned Act; "Lord Chancellor" means the Court of Session; "rules" means act of sederunt; and "county court" means the sheriff.

(2) This Act shall apply to Ireland subject to the following modifications :—

(*a*) A reference to the Lord Chancellor of Ireland shall be substituted for the reference to the Lord Chancellor;

(*b*) The expression "mortgage" includes a charge by registered disposition under the Local Registration of Title (Ireland) Act, 1891;

(*c*) The expression "rateable value" means the annual rateable value under the Irish Valuation Acts: Provided that where part of a house let as a separate dwelling is not separately valued under those Acts, the Commissioner of Valuation and Boundary Surveyor may on the application of the landlord or tenant make such apportionment of the rateable value of the whole house as seems just, and his decision as to the amount to be apportioned to the part of the house shall be final and conclusive, and that amount shall be taken to be the rateable value of the part of the house for the purposes of this Act but not further or otherwise.

5.—(1) This Act may be cited as the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915.

(2) This Act shall continue in force during the continuance of the present war and for a period of six months thereafter and no longer, but the expiration of this Act shall not render recoverable any rent or interest which during the continuance thereof was irrecoverable or affect the right of a tenant to recover any sum which during the continuance thereof was under this Act recoverable by him.

APPENDIX II.

Increase of Rent, &c. (Amendment) Act, 1918.
(8 Geo. 5, Ch. 7).

1. Sub-section (3) of section one of the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1919, shall have effect as if at the end thereof the following provision was inserted :—

> "For the purposes of this sub-section the expression "landlord" shall not include any person who since the thirtieth day of September nineteen hundred and seventeen has become landlord by the acquisition of the dwelling-house or any interest therein otherwise than by the devolution thereof to him under a settlement made before the said date, or under a testamentary disposition or an intestacy,"

and the provisions of the said sub-section with respect to orders made but not executed before the passing of that Act, shall apply to orders made but not executed before the passing of this Act, as if this Act had been substituted for that Act in the said sub-section :

Provided that this enactment shall not apply in any case where the court is satisfied by certificate given by or on behalf of the Board of Agriculture and Fisheries (or as regards premises in Scotland by the Board of Agriculture for Scotland, or in Ireland the Department of Agriculture and Technical Instruction for Ireland) that the premises in question are required for the occupation of a person engaged or employed in agricultural work of urgent national importance.

2. This Act may be cited as the Increase of Rent, &c. (Amendment) Act, 1918.

APPENDIX III.

Increase of Rent and Mortgage Interest (Restrictions) Act, 1919.

(9 Geo. V., Ch. 7).

1. The Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915 (hereinafter referred to as the " principal Act "), and the enactments amending that Act, shall continue in force until Lady Day nineteen hundred and twenty-one, but during the period (hereinafter referred to as " the extended period ") between the time when but for this Act the principal Act would have expired and the said Lady Day the principal Act shall have effect subject to the modifications contained in the two next succeeding sections.

2.—(1) An increase in the rent of a dwelling-house to which the principal Act applies payable in respect of the extended period or any part thereof which would but for the principal Act be recoverable, shall be recoverable if or so far as the amount of the increase does not exceed ten per centum of the standard rent :

Provided that no such increase shall be due or recoverable if the sanitary authority of the district in which the house is situate on the application of the tenant certifies that the house is no reasonably fit for human habitation or is not kept in a reasonable state of repair, nor in any case until or in respect of any period prior to the expiry of four clear weeks after the landlord has served upon the tenant a notice in writing of his intention to increase the rent, and informing the tenant of his right to apply to the sanitary authority for such a certificate as aforesaid.

(2) On any such application to a sanitary authority a fee of one shilling shall be payable, but if the authority, as a result of the application, issues such a certificate as aforesaid the tenant shall be entitled to deduct the amount of the fee from any subsequent payment of rent.

(3) The increase of rent permitted by this section shall be in addition to any increase permitted by section one of the principal Act.

3. Nothing in the principal Act shall prevent an increase in the rate of interest payable in respect of the extended period on a mortgage to which the principal Act applies, if the increase does not exceed one half per centum per annum, and the rate when so increased does not exceed five per centum per annum, and sub-section (4) of section one of the principal Act shall apply as if the reference therein to the standard rate included a reference to such increased rate.

4. As from the passing of this Act, the principal Act and the enactments amending that Act shall extend to houses or parts of houses let as separate dwellings where such letting does not include any land other than the site of

the dwelling-house and a garden or other premises within the curtilage of the dwelling-house, and where—

(*a*) in the case of a house situated in the metropolitan police district, including the City of London, both the annual amount of the standard rent and the rateable value of the house or part of the house exceed thirty-five pounds, and neither exceeds seventy pounds;

(*b*) in the case of a house situated in Scotland, both the annual amount of the standard rent and the rateable value of the house or part of the house exceed thirty pounds, and neither exceeds sixty pounds;

(*c*) in the case of a house situated elsewhere, both the annual amount of the standard rent and the rateable value of the house or part of the house exceed twenty-six pounds, and neither exceeds fifty-two pounds;

and shall also extend to mortgages (not being mortgages to which the principal Act as originally enacted applies), where the mortgaged property consists of or comprises one or more of such dwelling-houses as aforesaid or any interest therein, subject, however, to the exceptions mentioned in sub-section (4) of section two of the principal Act, but in the application to those houses and mortgages the principal Act and the enactments amending that Act shall have effect, subject to the following modifications :—

(i) for sub-section (1) of section one of the principal Act, exclusive of the provisoes to that sub-section, the following provisions shall be substituted :—

> Where the rent of a dwelling-house to which this Act applies or the rate of interest on a mortgage to which this Act applies has been since the twenty-fifth day of December nineteen hundred and eighteen, or is hereafter increased, and such increase would apart from this Act have been recoverable, then, if the increased rent exceeds by more than ten per centum the standard rent, or the increased rate of interest exceeds by more than one half per centum per annum the standard rate, the amount of such excess above the said ten per centum or one half per centum, as the case may be, shall, notwithstanding any agreement to the contrary, be irrecoverable from the tenant or the mortgagor, as the case may be, and, if paid, may be recovered by the tenant or mortgagor in the manner and subject to the provisions of sub-section (1) of section five of the Courts (Emergency Powers) Act, 1917;

(ii) in proviso (i) to sub-section (1) and sub-sections (2) and (4) of section one of the principal Act the fourth day of March nineteen hundred and nineteen shall be substituted for the twenty-fifth day of November nineteen hundred and fifteen;

(iii) in sub-section (3) of section one of the principal Act references to the date of the passing of the principal Act shall be construed as references to the date of passing of this Act;

(iv) in sub-section (4) of section one of the principal Act for the reference to the standard rate there shall be substituted a reference to the rate permitted by this section;

(v) at the end of paragraph (*a*) of sub-section (1) of section two of the principal Act there shall be inserted the following proviso :—

> Provided that, if the rateable value of the dwelling-house on the said third day of August exceeds the standard rent as so defined, that rateable value shall, as respects that house, be deemed to be the standard rent.

5.—(1) A landlord of a house to which the principal Act, either as originally enacted or as extended by this Act, applies shall, on being so requested by the tenant of the house, furnish to him a statement as to what is the standard rent of the house, and if he fails within fourteen days to do so, or furnishes a statement which is false in any material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds.

(2) Where a person who has, since the thirtieth day of September nineteen hundred and seventeen, purchased a house to which the principal Act, either as originally enacted or as extended by this Act, applies, requires the house for his own occupation or that of some person in his employ, or in the employ of some tenant from him, nothing in the Increase of Rent, &c. (Amendment) Act, 1918, shall be construed as preventing the court from making an order for the recovery of possession of the house, if, after considering all the circumstances of the case, including especially the alternative accommodation available for the tenant, the court considers it reasonable to make such an order.

(3) The principal Act, both as originally enacted and as extended by this Act, shall have effect as if in proviso (vi) to sub-section (1) of section one of that Act after the word "until" there were inserted the words "or in respect of any period prior to."

(4) Any rooms in a dwelling-house the subject of a separate letting as a dwelling shall, for the purposes of the principal Act and this Act, be treated as a part of a house let as a separate dwelling.

6.—(1) Where the occupier of a dwelling-house to which the principal Act, either as originally enacted or as extended by this Act, applies, lets, or has, before the passing of this Act, let the house or any part thereof at a rent which includes payment in respect of the use of furniture, and it is proved to the satisfaction of the county court on the application of the lessee that the rent charged yields to the occupier a profit more than twenty-five per centum in excess of the normal profit as hereinafter defined, the court may order that the rent, so far as it exceeds such sum as would yield such normal profit and twenty-five per centum, shall be irrecoverable, and that the amount of any payment of rent in excess of such sum which may have been made in respect of any period after the passing of this Act, shall be repaid to the lessee, and, without prejudice to any other method of recovery, may be recovered by him by means of deductions from any subsequent payments of rent.

(2) For the purpose of this section "normal profit" means the profit which might reasonably have been obtained from a similar letting in the year ending on the third day of August, nineteen hundred and fourteen.

7. At the end of paragraph (*a*) of sub-section (1) of section two of the principal Act, the following words shall be inserted :—

Provided that, in the case of any dwelling-house let at a progressive rent payable under a tenancy agreement or lease, the maximum rent payable under such tenancy agreement or lease shall be the standard rent.

8. Neither the principal Act nor this Act shall apply to houses erected after or in course of erection at the passing of this Act.

9. In the application of this Act to Scotland—

(*a*) the twenty-eighth day of May shall be substituted for Lady Day and the local authority under the Public Health (Scotland) Act, 1897, shall be substituted for the sanitary authority;

(*b*) as from the commencement of the extended period the principal Act shall be amended by the insertion in proviso (iv) of sub-section (1) of section one, after the word "dwelling-house" where first occurring

therein, of the words " or where by the law of Scotland owners' rates are chargeable on the landlord of any dwelling-house."

10. In the application of this Act to Ireland—

(a) the first day of May shall be substituted for Lady Day in the case of tenancies where the former day is the gale day;

(*b*) the medical officer of health of a dispensary district shall be substituted for the sanitary authority in section two of this Act, and the issue of certificates and the payment of fees in connexion with applications by tenants under the said section shall be subject to regulations to be made by the Local Government Board for Ireland.

11. This Act may be cited as the Increase of Rent and Mortgage Interest (Restrictions) Act, 1919, and shall be construed as one with the principal Act.

APPENDIX IV.

INCREASE OF RENT, &c. (AMENDMENT) ACT, 1919.
(9 & 10 GEO. 5, CH. 90).

1.—(1) After the passing of this Act no order or judgment for the recovery of possession of a dwelling-house to which the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915 (hereinafter called the principal Act) or any of the Acts amending the same applies, or for the ejectment of a tenant therefrom, shall be made or given, so long as the tenant continues to pay rent at the agreed rate as modified by the principal Act or any of the Acts amending the same and performs the other conditions of the tenancy, unless—

(*a*) the tenant has committed waste or has been guilty of conduct which is a nuisance or an annoyance to adjoining or neighbouring occupiers, and the court considers it reasonable to make such an order or give such judgment; or

(*b*) the tenant, by sub-letting the dwelling-house or any part thereof, or by taking in lodgers, is making a profit which, having regard to the rent paid by the tenant, is unreasonable and the court considers it reasonable to make such an order or give such judgment; or

(*c*) the premises are reasonably required by the landlord for the occupation of himself or some other person in his employ, or in the employ of some tenant from him, and the court, after considering all the circumstances of the case, including especially the alternative accommodation available for the tenant, considers it reasonable to make such an order or give such judgment.

(2) At the time of making any order or giving any judgment for the recovery of possession of any such dwelling-house or for the ejectment of a tenant therefrom, or in the case of any such order or judgment which has been made or given, whether before or after the passing of this Act, and not executed, at any subsequent time, the court may, if the order or judgment was made or given on the ground that the premises were reasonably required as aforesaid, stay or suspend execution thereof, or postpone the date of possession, for such period or periods as it shall think fit, either unconditionally or subject to such conditions in regard to payment by the tenant of rent or mesne profits and otherwise as the court shall think fit, and, if such conditions are complied with, the court may, if it shall think fit, discharge or rescind such order or judgment.

(3) Where any order or judgment has been made or given before the passing of this Act, but not executed, and in the opinion of the court the order or judgment would not have been made or given if this Act had been in force at the time when such order or judgment was made or given, the court may,

on application by the tenant, rescind or vary such order or judgment in such manner as the court may think fit for the purpose of giving effect to this Act.

(4) Notwithstanding anything in section one hundred and forty-three of the County Courts Act, 1888, every warrant for delivery of possession of a dwelling-house to which the principal Act or any Act amending the same applies, shall remain in force for three months from the day next after the last day named in the judgment or order for delivery of possession or ejectment, and for such period or periods, if any, as the court shall from time to time, whether before or after the expiration of such three months, direct.

(5) This Act shall not apply to a dwelling-house let at a rent which includes payments in respect of board, attendance, or use of furniture.

(6) In the application of this section to Scotland a reference to profits shall be substituted for the reference to mesne profits.

2.—(1) This Act may be cited as the Increase of Rent, &c., (Amendment) Act, 1919, and shall remain in force until the first day of July nineteen hundred and twenty, and shall be construed as one with the principal Act.

(2) The enactments set out in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

SCHEDULE.

Session and Chapter.	Short Title.	Extent of Repeal.
5 & 6 Geo. 5. c. 97.	Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915.	S. 1 (3).
8 Geo. 5. c. 7	Increase of Rent, &c. (Amendment) Act, 1918	The whole Act.
9 Geo. 5. c. 7	Increase of Rent and Mortgage Interest (Restrictions) Act, 1919.	S. 5 (2).

APPENDIX V.

FORMS FOR USE IN PROCEEDINGS UNDER THE ACT.

1.

Summons for Determination of Question as to Increase of Rent.

In the County Court of , holden at .

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

No. of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

To
of

TAKE NOTICE, that you are hereby summoned to attend this Court on , the day of , at the hour of in the noon, on the hearing of an application on the part of , of , for the determination, pursuant to the above-mentioned Act, of a question which has arisen as to the increase of rent of a certain dwelling-house [*or* a part, that is to say (*here specify the part*)

,

of a certain dwelling-house], to which the said Act applies, situate at

,

and known as ,

of which the applicant is the tenant and you the respondent are the landlord [*or* of which you the respondent are the tenant and the applicant is the landlord],
on the transfer to the tenant of certain burdens and liabilities previously borne by the landlord [*or* in respect of the transfer to the landlord of certain burdens and liabilities previously borne by the tenant],

and for an order providing for the costs of the application.

AND FURTHER TAKE NOTICE, that if you do not attend in person or by your solicitor at the time and place above mentioned such proceedings will be taken and determination made as the Court may think just.

Dated this day of , 19 .

By the Court,

Registrar.

To (*the Respondent, naming him*).

2.

Summons for Order authorising Mortgagee to call in and enforce Mortgage.

In the County Court of , holden at .

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

No. of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

To
of

TAKE NOTICE, that you are hereby summoned to attend this Court on , the day of , at the hour of in the noon, on the hearing of an application on the part of of , for an order that, notwithstanding the provisions of the above-mentioned Act, the said may be at liberty to call in and enforce a certain mortgage to which the said Act applies, dated the day of , granted by you the respondent to the applicant [*or* to and assigned by him to the applicant] on certain leasehold property situate at , and known as ,

on the ground that the security is seriously diminishing in value or is otherwise in jeopardy, and that for that reason it is reasonable that the mortgage should be called in and enforced,

and for an order providing for the costs of the application.

AND FURTHER TAKE NOTICE, that if you do not attend in person or by your solicitor at the time and place above mentioned such proceedings will be taken and order made as the Court may think just.

Dated this day of , 19 .

By the Court,

Registrar.

To (*the Respondent, naming him*).

3.

Summons for Apportionment of Rent or Rateable Value of Property.

In the County Court of , holden at

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

No of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

To
of

Take Notice, that you are hereby summoned to attend this Court on , the day of , at the hour of in the noon, on the hearing of an application on the part of , of , for the apportionment of the rent on the 3rd day of August, 1914 [*or (if the property was last let before or first let after the 3rd August, 1914, insert the date at which it was so let;* see *Act, Section* 12 (1) (*a*)]
[*or* the rateable value on the 3rd day of August, 1914 [*or (if the property was first assessed after that date, insert the date at which it was first assessed*)]]
of certain property situate at ,
and known as ,

and comprising a certain dwelling-house [*or* part, that is to say (*here specify the part*),
of a certain dwelling-house] situate at ,
and known as ,

for the purpose of determining the standard rent [*or* the rateable value] of the said dwelling-house [*or* of the above-mentioned part of the said dwelling-house] for the purposes of the above-mentioned Act,

and for an order providing for the costs of the application.

And further take notice, that if you do not attend in person or by your solicitor at the time and place above mentioned such proceedings will be taken and determination made as the Court may think just.

Dated this day of , 19 .

By the Court,

Registrar.

To (*the Respondent, naming him*).

4.

Certificate on Application for Determination of Question as to Increase of Rent.

In the County Court of , holden at .

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

No. of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

On the application of
and upon hearing

This Court doth pursuant to the above-mentioned Act determine—

(*a*) that as the result of the transfer to the applicant, A.B., [*or* the respondent, C.D.,] the tenant of a certain dwelling-house [*or* of part, that is to say, (*here specify the part*) of a certain dwelling-house] to which the said Act applies, situate at , and known as ,

of the following burdens and liabilities formerly borne by the respondent, C.D., [*or*, by the applicant, A.B.,] the landlord, that is to say (*here specify the burdens and liabilities transferred*) ,

the terms on which the said premises are held are on the whole less favourable to the tenant than the previous terms, and that the rent of the said premises has thereby been increased for the purposes of the said Act by the sum of a week [*or* are on the whole not less favourable to the tenant than the previous terms, and that the rent of the said premises has not been increased for the purposes of the said Act] :

[*or* (*b*) that as the result of the transfer to the applicant, A.B., [*or* the respondent, C.D.,] the landlord of a certain dwelling-house [*or* of part, that is to say (*here specify the part*) of a certain dwelling-house] to which the said Act applies, situate at , and known as ,

of the following burdens and liabilities previously borne by the respondent, C.D., [*or* the applicant, A.B.,], the tenant, that is to say (*here specify the burdens and liabilities transferred*)

and the increase of rent in respect of such transfer, the terms on which the said premises are held are on the whole more favourable to the tenant than the previous terms, and that the increased rent in respect of such transfer is to be deemed not to be an increase of rent for the purposes of the said Act [*or* are on the whole less favourable to the tenant than the previous terms, and that the increased rent in respect of such transfer is to be deemed to be an increase of rent for the purposes of the said Act to the extent of a week]]
[*or as the case may be*].

[*Add, if so ordered,*

And it is ordered that the respondent, C.D.,
[or the applicant, A.B.,]
do, on or before the day of , 19 , pay to the applicant, A.B.,
[or to the respondent, C.D.,]
his costs of this application, which are hereby allowed at the sum of £].

Dated this day of , 19 .

By the Court,
Registrar.

To (*the applicant and respondent, naming them*)

5.

Order on Application for Order authorising Mortgagee to call in and enforce Mortgage.

In the County Court of , holden at .

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

No. of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

On the application of ,
and upon hearing ,

This Court being satisfied that the security of the applicant on certain

leasehold property situate at ,
and known as ,
under a certain mortgage to which the above-mentioned Act applies, dated the day of , granted by the respondent to the applicant [*or* to ,
and assigned by him to the applicant], is seriously diminishing in value, or is otherwise in jeopardy, and that it is reasonable that the said mortgage should be called in and enforced, doth pursuant to the above-mentioned Act order that notwithstanding the provisions of the said Act the applicant, A.B., be at liberty and he is hereby authorised to call in and enforce the said mortgage.

[*If any conditions imposed, add* subject to the following conditions, that is to say :—

].

[*Or*, It is ordered that the application of the applicant, A.B., for an order authorising him to call in and enforce a certain mortgage to which the above-mentioned Act applies, on certain leasehold property situate at
and known as

,
dated the day of , 19 , granted by the respondent, C.D., to the applicant, A.B. [*or* to ,
and assigned by him to the applicant, A.B.,]
be and the same is hereby dismissed.

[*Add, if so ordered,*

And it is ordered that the applicant, A.B., be allowed as against the respondent, C.D., his costs of this application, which are hereby allowed at the sum of £ .

And it is ordered that the said sum of £ be added to the security created by the said mortgage [*or* that the respondent, C.D., do pay the said sum of £ to the applicant, A.B., on or before the day of , 19].

[*Or*, And it is ordered that the applicant, A.B., do, on or before the day of , 19 , pay to the respondent, C.D., his costs of this application, which are hereby allowed at the sum of £ .]

Dated this day of , 19 .

By the Court,

Registrar.

To
(*the applicant and respondent, naming them*).

6.

Certificate on Application for Apportionment of Rent or Rateable Value.

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

No. of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

On the application of
and upon hearing

This Court, for the purpose of determining the standard rent [*or* rateable value] of a certain dwelling-house [*or* of part, that is to say (*here specify the part*)
of a certain dwelling-house] to which the above-mentioned Act applies, situate at , and known as

and comprised in a certain property known as

doth pursuant to the above-mentioned Act declare that the rent at which the said property was let on the 3rd day of August, 1914 [*or if the property was last let before that date or first let after that date*, on the day of , 19 , (*the date on which it was so let*)], shall be apportioned between the said dwelling-house [*or* the said part of the said dwelling-house] and the rest of the said property as follows, viz. :—

£ to the said dwelling-house [*or* the said part of the said dwelling-house]; and

£ to the remainder of the said property.

[*or* doth pursuant to the above-mentioned Act declare that the rateable value of the said property on the 3rd day of August, 1914 [*or if the property was first assessed after that date* on the day of , 19 (*the date on which it was first assessed*)], shall be apportioned between the said dwelling-house [*or* the said part of the said dwelling-house] and the rest of the said property as follows, viz. :—

£ to the said dwelling-house [*or* the said part of the said dwelling-house]; and

£ to the remainder of the said property.

[*Add, if so ordered,*

And it is ordered that the respondent, C.D.,
[*or* the applicant, A.B.,] do, on or before the day of , 19 , pay to the applicant, A.B.,
[*or* to the respondent, C.D.,]
his costs of this application, which are hereby allowed at the sum of .]

Dated this day of , 19 .

By the Court,

Registrar.

To
(*the applicant and respondent, naming them*).

7.

Notice of Application for Suspension, Discharge, or Variation of Determination or Order.

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

In the County Court of , holden at .
No. of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

TAKE NOTICE, that the applicant, A.B., [*or* the respondent, C.D.,] intends to apply to the Judge of this Court on , the day of , 19 . at the hour of in the noon, to suspend [discharge *or* vary] the determination [*or* order] made in this matter on the day of , 19 , whereby it was determined [*or* ordered *or* declared] that (*here recite determination or order*)

and for an order providing for the costs of this application.

AND FURTHER TAKE NOTICE, that the grounds of my intended application are that the following circumstances have arisen since the date of the said determination [*or* order] which render it just that the said determination [*or* order] should be suspended [discharged *or* varied], viz. :—

(*here set out circumstances*)

Dated this day of , 19 .

(Signed)
Applicant [*or* Respondent],
[*or* Applicant's [*or* Respondent's] Solicitor].

To (*the respondent or applicant, naming him*),
and to Messrs.
his solicitors,
and to the Registrar of the Court.

8.

Order on Application for Suspension, Discharge, or Variation of Determination or Order.

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

In the County Court of , holden at .

No. of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

On the application of for the suspension [discharge *or* variation] of the determination [*or* order] made in this matter on the day of , 19 , whereby it was determined [*or* ordered *or* declared] that

(*here recite determination or order*)

and upon hearing ,

It is ordered that the said determination [*or* order] be and the same is hereby suspended [*or* discharged *or* varied] as follows :—

(*here set out terms of order for suspension, discharge, or variation*)

[*Or*, It is ordered that the application of the said be and the same is hereby dismissed.]

[*Add order as to costs, if any* : see Form 6.]

Dated this day of , 19 .

By the Court,

Registrar.

To

(*the applicant and the respondent, naming them*).

9.

Summons on Application under Section 9 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

In the County Court of , holden at .

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

No. of Application .

Between

A.B.
(*address and description*) Applicant,

and

C.D.
(*address and description*) Respondent.

TAKE NOTICE, that you are hereby summoned to attend this Court on the day of 19 , at the hour of in the noon, on the hearing of an application on the part of of the particulars of which are hereunto annexed.

AND FURTHER TAKE NOTICE, that if you do not attend in person or by your solicitor at the time and place above mentioned, such proceedings will be taken and order made as the Court may think just.

Dated this day of , 19 .

By the Court,

Registrar.

To (*the Respondent, naming him*).

PARTICULARS.

[*To be appended or annexed to summons and, if on separate paper, with heading as in summons.*]

1. On or about the day of , 19 , the Respondent, the occupier of a certain dwelling-house [*or* of part, that is to say (*here specify the part*) of a certain dwelling-house] situate at and known as and being a dwelling-house to which the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, applies, let the said dwelling-house [*or* a part of the said dwelling-house, that is to say (*here specify the part*)] to the Applicant at a rent of a week [*or* a month, *or as the case may be*] , which rent includes payment in respect of furniture.

2. The Applicant alleges that the rent charged for the premises so let to him yields to the Respondent a profit more than 25 per cent. in excess of the profit which might reasonably have been obtained from a similar letting in the year ending on the 3rd day of August, 1914.

3. The Applicant therefore applies to the Court under section 9 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920—

(*a*) for a declaration that it is proved to the satisfaction of the Court that the rent charged on the letting of the said premises by the Respondent to the Applicant yields to the Respondent a profit more than 25 per cent. in excess of the profit which might reasonably have been obtained from a similar letting in the year ending on the 3rd day of August, 1914, and for an assessment by the Court of the amount of such last-mentioned profit; and

(*b*) for an order that the said rent, so far as it exceeds such sum as would yield such last-mentioned profit and 25 per cent. thereon, shall be irrecoverable; and

(*c*) for an order that the amount of any payment of rent in excess of such sum made by the Applicant in respect of any period after the passing of the said Act shall be repaid to the Applicant, and may, without prejudice to any other mode of recovery, be recovered by the Applicant by means of deductions from any subsequent payment of rent; and

(*d*) for an order providing for the costs of this application.

Dated this day of , 19 .

Applicant
[*or* Applicant's Solicitor].

10.

Order on Application under Section 9 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

In the County Court of , holden at .

In the Matter of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

No. of Application

Between

A.B.
(*address and description*) Applicant

and

C.D.
(*address and description*) Respondent.

On the application of for an order under section 9 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, and upon hearing ,

The Court doth declare that it is proved to its satisfaction that the rent charged on the letting by the Respondent, the occupier, to the Applicant of a certain dwelling-house [*or* a part, that is to say (*here specify the part*) of a certain dwelling-house] situate at and known as and being a dwelling-house to which the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, applies, at a rent of a week [*or* a month, *or as the case may be*], which rent includes payment

in respect of the use of furniture, yields to the Respondent a profit more than 25 per cent. in excess of the profit which might reasonably have been obtained from a similar letting in the year ending on the 3rd day of August, 1914, which last-mentioned profit is hereby assessed by the Court at the sum of a week [*or* a month, *or as the case may be*].

And it is ordered that the said rent to the extent of a week [*or as the case may be*] being the amount by which the said rent exceeds the sum of per week [*or as the case may be*] , which would yield such last-mentioned profit and 25 per cent. thereon, shall be irrecoverable.

And it is further ordered that the sum of , being the amount of the payments of rent in excess of the said sum of per week (*or as the case may be*) made by the Applicant in respect of the period of the said letting after the passing of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, shall be repaid to the Applicant, and may, without prejudice to any other method of recovery, be recovered by the Applicant by means of deductions from any subsequent payments of rent.

[*Add, if so ordered—*

And it is ordered that the Respondent do pay the said sum of to the Applicant on the day of [*or* by instalments of for every days, the first payment to be made on the day of].]

[*Add also, if so ordered—*

And it is ordered that the Respondent do on or before the day of pay to the Applicant his costs of this application, which are hereby allowed at the sum of .]

[*Or, if application fails—*

On the application of for an order under section 9 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, and upon hearing

It is ordered that the said application be and the same is hereby dismissed.

[*Add directions, if any, as to costs*

].]

Dated this day of , 19 .

By the Court,

Registrar.

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